

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

VINCENT WHITE, individually and on )  
behalf of others similarly situated, )  
*Plaintiff,* )  
v. )  
CITY OF RICHMOND, VIRGINIA, )  
*Defendants.* )

Civil Action No.: 3:18-cv-504-JAG

**FLSA COLLECTIVE ACTION COMPLAINT**

Plaintiff Vincent White (“Plaintiff”), individually and on behalf of other similarly situated individuals, for his Complaint against Defendant City of Richmond (“Defendant” or “City”), states as follows:

**INTRODUCTION**

1. Plaintiff brings this action on behalf of himself and others similarly situated to require Defendant to pay back wages owed to them, which Defendant failed to pay in violation of § 7 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201, *et seq.* (“the FLSA”). Plaintiff seeks permanent injunctive relief and damages for himself and others similarly situated. Attached as Exhibit 1 is Plaintiff’s Consent to Join.

**JURISDICTION AND VENUE**

2. This Court has original jurisdiction over this matter pursuant to 29 U.S.C. § 216(b).

3. Venue is proper in the Eastern District of Virginia under 28 U.S.C. § 1391(b).

4. The Defendant is subject to personal jurisdiction in the Commonwealth of Virginia.

### **PARTIES**

5. Plaintiff is a citizen and resident of Virginia. Plaintiff is the former employee of Defendant and was employed as a “Family Service Worker.” Plaintiff was employed with Defendant from November of 2015 to September 16, 2016.

6. At all times relevant hereto, Plaintiff was an employee of Defendant within the meaning of the FLSA, 29 U.S.C. § 203(e)(1) and § 203(e)(2)(C).

7. Defendant City of Richmond is a city within the Commonwealth of Virginia. Plaintiff worked for an agency within the City called the Richmond Department of Social Services which employs over three hundred (300) employees performing various social services and other support duties. Defendant was Plaintiff’s “employer” within the meaning of 29 U.S.C. § 203(d) and was the “employer” of Plaintiff and others similarly situated within the meaning of 29 U.S.C. § 203(d) at all times relevant hereto.

### **COLLECTIVE ACTION FACTUAL ALLEGATIONS**

8. Plaintiff brings this action individually and on behalf of other similarly situated individuals pursuant to 29 U.S.C. § 216(b).

9. Plaintiff and the similarly situated individuals are similar because they share comparable job duties, have been designated as “non-exempt” by Defendant, and have nevertheless been required, suffered or permitted to work uncompensated overtime hours and denied overtime compensation, in violation of the FLSA.

10. Defendant was sued for violations of the FLSA in the lawsuit *Lewis, et al. v. City of Richmond, Virginia* (E.D. Va., Civil Action No. 3:14-cv-213-JAG) which settled

on March 23, 2015. Defendant's violations in this case are similar to the violations alleged in *Lewis*.

11. Thereafter, Defendant was sued again for violations of the FLSA in the lawsuit *Cephas, et al. v. City of Richmond, Virginia* (E.D. Va., Civil Action No. 3:15-cv-332-JAG) which settled on June 30, 2016. Defendant's violations in this case are similar to the violations alleged in *Cephas*.

12. Despite being sued twice in rapid succession, and despite paying millions of dollars in settlement and attorney's fees, Defendant has continued its unlawful employment practices and required or permitted the Off the Clock Class to work uncompensated overtime hours.

13. Defendant's continuing violations of the FLSA are willful.

14. Plaintiff and those similarly situated are individuals who were, or are, employed by Defendant as "Family Service Workers." Plaintiff and those similarly situated are individuals who were, or are, employed by Defendant on a full-time basis.

15. Defendant in or around June of 2015 properly classified Plaintiff and those similarly situated as non-exempt under the FLSA, but improperly failed to pay such employees their overtime as required by the FLSA.

16. Defendant employs or employed Plaintiff and those similarly situated within the Family Reunification and Permanency Unit of the Richmond Department of Social Services ("DSS") as Family Service Workers.

17. Family Service Workers are employees whose duties may include, but are not limited to: conducting field investigations or inspections for violations of law including, but not limited to, foster care compliance, and/or ongoing compliance; visiting foster

families to ensure the safety and well-being of the child and to provide assistance to the foster family in securing resources necessary to benefit the child; child advocacy; filling out paperwork; maintaining case files; interviewing witnesses; completing reports; and entering information into a computer system to generate reports and/or guidance from computer systems run by the DSS.

18. Family Service Workers did not exercise discretion and/or independent judgment in determining the outcome of their investigations. Family Service Workers' findings in their investigations were unilaterally changed by upper management at DSS.

19. Plaintiff and other similarly situated employees had excessive caseloads. While the ideal case load was between 5 and 10 cases, Plaintiff, and those similarly situated to him, typically have had caseloads of over 20 cases.

20. Family Service Workers' caseloads necessitated working through their lunch breaks, working from home after their normal office hours, and on weekends.

21. Defendant knew or had constructive knowledge that Plaintiff and other similarly situated employees were regularly working more than forty (40) hours per week.

22. Upon information and belief, the Virginia Department of Social Services ("VSDSS") sets the policies and procedures for Family Service Workers' job duties.

23. At all times relevant herein, Plaintiff and other similarly situated employees were regularly required to work, and perform work, for the Defendant for more than forty (40) hours in a workweek on behalf of Defendant.

24. At all times relevant herein, Plaintiff and other similarly situated employees did not perform as a primary duty managerial tasks over other employees, such as: interviewing, selecting, or training employees; setting employees' schedules or hours of

work; directing employees' work; maintaining production or sales records; appraising employee productivity and efficiency; handling employee complaints and grievances; and disciplining employees.

25. At all times relevant herein, Plaintiff and other similarly situated employees did not perform work directly related to the management or general business operations of their employer such as: advising the management, planning, negotiating, purchasing, promoting sales, or business research and control.

26. At all times relevant herein, Plaintiff and other similarly situated employees did not perform work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.

27. At all times relevant herein, Plaintiff and other similarly situated employees did not perform as a primary duty work that includes the exercise of discretion and independent judgment with respect to matters of significance.

28. At all times relevant herein, Plaintiff and other similarly situated employees did not:

- a. have the authority to formulate, affect, interpret, or implement management policies or operating practices;
- b. perform work that affected business operations to a substantial degree;
- c. have authority to commit the City in matters that have significant financial impact;
- d. have authority to waive or deviate from established policies and procedures;
- e. have authority to negotiate and bind Defendant on significant matters; and
- f. were not involved in planning long- or short-term business objectives.

29. At all times relevant herein, Plaintiff and other similarly situated employees' job duties did not meet the criteria for any exemption to the overtime compensation requirements of the FLSA.

30. Family Service Workers are not required to have a Bachelor's or Master's degree in Social Work.

31. The City does not require Family Service Workers to be Licensed Clinical Social Workers (LCSWs).

32. At all times relevant herein, Defendant intended to deprive Plaintiff and other similarly situated employees of the overtime pay he and they were entitled to under the FLSA, or acted with reckless disregard for Plaintiff's rights under the FLSA.

33. At all times relevant herein, the Plaintiff and other similarly situated employees were subject to pay policies whereby Plaintiff and those similarly situated employees were suffered or permitted to work in excess of 40 hours per week without receiving full overtime compensation for all hours.

34. At all times relevant herein, Defendant intended to deprive Plaintiff and other similarly situated employees of the overtime pay they were entitled to under the FLSA, or acted with reckless disregard for Plaintiffs' rights under the FLSA.

**FACTUAL ALLEGATIONS OF PLAINTIFF WHITE**

35. Plaintiff incorporates and re-alleges the allegations contained within the preceding paragraphs of this Complaint and though fully set forth herein.

36. Defendant did not compensate White for hours over forty (40) that he worked in a given workweek, approximately 5 hours per week from May through late

August of 2016, and did not pay a rate of one and one-half times his regular rate for these hours.

37. Plaintiff's position as a Family Service Workers necessitated working after normal business hours, including phone calls, text messaging with foster families and completing the foster care plans and other reports for each case that was assigned to him.

38. Plaintiff was frequently required to work overtime hours in order to complete his work and complete the requirements of his position with the large caseload that he had.

39. Defendant used Rapids, a web-based program for employees to enter their hours worked. If an employee entered over eight hours per workday, the employee would be prompted to submit a separate form that needed to be approved by the supervisor.

40. Plaintiff was directly supervised by Sandra Collier ("Collier") at all times during his employment with Defendant.

41. Collier frowned upon Plaintiff and other similarly situated employees from working overtime as she did not like to complete the paperwork that was required when an employee worked overtime.

42. When Plaintiff submitted the form containing his overtime hours to Collier for approval, Collier would dispute his hours because she did not want to complete the paperwork.

43. Collier told Plaintiff that if he worked overtime hours he should compensate for that time by taking "flex time."

44. When Plaintiff attempted to take "flex time" Collier made it clear that this too was frowned upon and Plaintiff felt intimidated not to take "flex time."

45. Plaintiff's case load and the requirements of his position also did not allow him to take "flex time."

**COUNT I**  
**Violation of the Fair Labor Standards Act**

46. Plaintiff incorporates by reference the allegations asserted above.

47. During the last three years, Plaintiff and the similarly situated individuals were employed by Defendant as Family Service Workers in the Foster Care Unit that primarily involved: conducting field investigations or inspections for violations of law including, but not limited to, foster care compliance, and/or ongoing compliance; visiting foster families to ensure the safety and well-being of the child and to provide assistance to the foster family in securing resources necessary to benefit the child; child advocacy; filling out paperwork; maintaining case files; interviewing witnesses; completing reports; and entering information into a computer system to generate reports and/or guidance from computer systems run by the DSS..

48. The FLSA requires employers to pay employees for all hours worked. The FLSA requires employers to pay employees one and one-half times the regular rate of pay for all hours worked over forty hours per workweek.

49. Defendant classified Plaintiff and other Family Service Workers as "non-exempt" employees, but nevertheless failed and refused to pay them the hourly wage compensation as required by law and in accordance with §§ 206 and 207 of the FLSA.

50. Defendant's violation of the FLSA was willful and a 3-year statute of limitations applies to such violations, pursuant to 29 U.S.C. § 255.



51. As a result of Defendant's violations of the FLSA, Plaintiff and other Family Service Workers have suffered damages by being denied overtime wages in accordance with § 206 and § 207 of the FLSA.

52. Defendant has not made good faith efforts to comply with the FLSA with respect to its compensation of Plaintiff and other Family Service Workers.

53. Defendant's actions, policies, and/or practices described above violate the FLSA's requirements by regularly and repeatedly failing to compensate Plaintiff and other Family Service Workers for time spent on work activities as described in this Complaint.

54. Defendant knew or showed reckless disregard for the fact that it failed to pay these Plaintiff and those similarly situated to him for overtime hours worked.

55. As a result of Defendant's unlawful acts, Plaintiff and other Family Service Workers have been deprived of overtime compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to § 216(b) of the FLSA.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, Vincent White, individually and on behalf of those similarly situated, by counsel, requests that this Court:

- A. Issue an Order certifying this action as a collective action under the FLSA and designating the above Plaintiff as representative of all those similarly situated under this FLSA collective action;
- B. Allow the Plaintiff, at the earliest time possible, to give notice of this collective action, or that the court issue such notice, to all persons who are presently, or have at any time during the three years immediately preceding the filing of this suit, up

- through and including the date of this Court's issuance of court-supervised notice, been employed by Defendant as Family Service Workers. Such notice shall inform them that this civil action has been filed, of the nature of the action, and of their right to join this lawsuit if they believe they were denied proper wages;
- C. Issue an Order appointing the undersigned counsel as Class Counsel pursuant to Rule 23(g);
  - D. Enter judgment declaring that the acts and practices complained of herein are violations and willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*;
  - E. Enter judgment awarding Plaintiff and all those similarly situated actual and compensatory damages in the amount to be due for unpaid overtime compensation, with pre-judgment interest, against the Defendant;
  - F. Enter judgment awarding Plaintiff and all those similarly situated an equal amount (inclusive of unpaid overtime for all hours worked) in statutorily-allowed liquidated damages for willful violations of the FLSA;
  - G. Enter judgment awarding Plaintiff and all those similarly situated reasonable prejudgment interest, attorneys' fees, and costs of this suit;
  - H. Enjoin Defendant from future violations of the FLSA through the mandated payment of overtime compensation to similarly situated employees for hours worked in excess of forty (40) per week; and,
  - I. Grant such other and further relief as this Court deems necessary and proper.

**PLAINTIFF REQUESTS A TRIAL BY JURY.**

Respectfully submitted,

VINCENT WHITE

By Counsel

/s/ Tim Schulte

Blackwell N. Shelley, Jr. (VSB #28142)

Tim Schulte (VSB #41881)

Shelley Cupp Schulte, P.C.

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*Counsel for Plaintiff*

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Vincent E. White, individually and on behalf of himself and others similarly situated,

(b) County of Residence of First Listed Plaintiff Henrico  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Tim Schulte, Esquire, Shelley Cupp Schulte, 2020 Monument Avenue,  
Richmond, VA 23220; 804-644-9700

**DEFENDANTS**

City of Richmond

County of Residence of First Listed Defendant Richmond  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. 201, et seq.

Brief description of cause:  
Seeking unpaid overtime compensation

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE 07/20/2018 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

VINCENT WHITE, individually )  
and on behalf of others similarly )  
situated, )  
*Plaintiff,* )  
v. )  
CITY OF RICHMOND, VIRGINIA, )  
*Defendants.* )

Civil Action No.: \_\_\_\_\_

**DECLARATION OF VINCENT E. WHITE**

I hereby consent to opt-in to become a plaintiff in this representative Fair Labor Standards Act action pursuant to 29 U.S.C. § 216(b).

Vincent E. White



\_\_\_\_\_  
Signature

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Social Services Worker Sues City of Richmond, Virginia Over Allegedly Unpaid OT](#)

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