

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ISAAC WRIGHT, on behalf of himself and others similarly situated,)	CIVIL ACTION
)	
Plaintiff,)	No.: 4:16-cv-000580-CCC
)	
vs.)	The Honorable Christopher C. Conner
)	
CENERGY INTERNATIONAL)	Non-jury trial
SERVICES, LLC,)	
)	Electronically Filed and Served on May
Defendant.)	23, 2016
)	

DEFENDANT’S ANSWER TO COMPLAINT – CLASS/COLLECTIVE ACTION

Defendant, Cenergy International Services, LLC (“Cenergy”), by and through its undersigned counsel, files the following Answer and Affirmative Defenses to Complaint – Class/Collective Action, and in support thereof aver as follows:

Jurisdiction and Venue

1. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, Cenergy admits this Court has jurisdiction over Fair Labor Standards Act (“FLSA”) claims pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

2. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, Cenergy admits this Court has supplemental jurisdiction over Pennsylvania Minimum Wage Act (“PMWA”) claims pursuant to 28 U.S.C. § 1367.

3. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, Cenergy denies this Court is the proper venue for Wright's claims.

Parties

4. Admitted that Wright is an adult individual. After reasonable investigation, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph. Therefore, they are denied.

5. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

6. Defendant admits that it is headquartered in Houston, Texas, is registered to do business in Pennsylvania, and regularly conducts business within this judicial district. The remaining allegations contained in this paragraph are denied.

7. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied with regard to Wright.

Facts

8. Admitted.

9. Admitted.

10. Admitted. By way of further answer, Cenergy attaches the Employment Offer Letter signed by Mr. Wright as Exhibit A.

11. Admitted.

12. Denied as stated. After reasonable investigation, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph. Therefore, they are denied.

13. Admitted that Wright was not paid overtime because he was an exempt employee. Ex. A. After reasonable investigation, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph. Therefore, they are denied.

14. The allegations contained in this paragraph state conclusions of law to which no response is required. However, since Wright was an exempt employee, to the extent a response is required as to him, the allegations are denied. Ex. A. After reasonable investigation, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph. Therefore, they are denied.

Class/Collective Action Allegations

15. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied other than the allegation that some Cenergy employees were paid a fixed amount for each workday.

16. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

17. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

18. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

19. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

20. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

21. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

22. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

23. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

Count I
(Alleging FLSA Violations)

24. The responses set forth above in paragraphs 1 through and including 23 are incorporated by reference.

25. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, it is admitted that the FLSA provides for time and one-half for overtime hours worked by non-exempt employees.

26. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

Count II
(Alleging PMWA Violations)

27. The responses set forth above in paragraphs 1 through and including 26 are incorporated by reference.

28. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, To the extent a response is required, it is admitted that the PMWA provides for time and one-half for overtime hours worked by non-exempt employees

29. The allegations contained in this paragraph state conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

Affirmative Defenses

First Affirmative Defense

Venue is improper in this Court because Wright's employment agreement includes a choice of forum clause establishing venue in the Southern District of Texas. *See* Ex. A. Concurrent with this Answer, Cenergy filed a Motion to Transfer Venue. Because Cenergy's Motion would not dispose of the case on its merits, Cenergy files the Answer but does not waive its defense that venue is improper in this Court.

Second Affirmative Defense

Wright fails to state any claim upon which relief may be granted.

Third Affirmative Defense

Wright's claims are barred by the doctrine of unclean hands.

Fourth Affirmative Defense

Wright is estopped from asserting the claims set forth in the Complaint.

Fifth Affirmative Defense

Cenergy acted reasonably and in good faith.

Sixth Affirmative Defense

Wright has failed to comply with statutory prerequisites to maintaining suit and otherwise failed to exhaust his administrative remedies.

Seventh Affirmative Defense

Cenergy, at all relevant times, acted in compliance with all applicable laws.

Eighth Affirmative Defense

Wright's claims are barred by the applicable statute of limitations.

Ninth Affirmative Defense

Wright's claims are barred by the doctrine of laches.

Tenth Affirmative Defense

Any and all affirmative defenses that may be appropriate after facts are developed through the discovery process.

WHEREFORE, Cenergy demand judgment in its favor, dismissal with prejudice of the Complaint, an award of costs, and all other relief the Court deems appropriate.

Respectfully submitted,

STRASSBURGER McKENNA GUTNICK
& GEFSKY

By: /s/Jean E. Novak

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Counsel for Defendant
Cenergy International Services, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 23rd day of May 2016, a true and correct copy of the foregoing **ANSWER** was electronically filed with the Clerk of Court using the Case Management/Electronic Case Filing system (CM/ECF), which will send notification of such filing to the following:

Peter Winebrake, Esq.
R. Andrew Santillo, Esq.
Mark J. Gottesfeld, Esq.
Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
mgottesfeld@winebrakelaw.com

/s/Jean E. Novak

EMPLOYMENT OFFER LETTER Exempt (National)

This Employment offer letter (Agreement) is entered into and made effective the 17th day of August 2015, by and between Cenergy International Services, LLC, an LLC organized and existing under the laws of the state of Delaware with its registered offices at 12650 Crossroads Park Drive, Houston, Texas, 77065 ("Company") and Isaac Wright.

Company is in the business of providing Employee labor services in the oil and gas industry; and

Employee has been retained by Company for placement on a project for a Company client to provide professional services to the project;

THEREFORE, the Company and Employee agree to the following terms and conditions of employment.

SPECIFICS

Client:	Shell
Job Title:	Rig Clerk
Project Commencement Date:	August 17, 2015
Project Completion Date:	TBD (subject to extension and Section 4.0)
Working Hours:	exempt schedule with similar week to week hours with additional hours required on occasion
Location:	Wellsboro, PA - United States. The Company may change your duties, hours, and work location from time to time, in its discretion.
Compensation:	See Exhibit A for details
Medical Insurance:	As per the medical documents included in this on boarding packet.
401K:	Provided by Company for Employee - Company will match as fully explained in the 401k documentation
Additional Information:	As an exempt employee, no overtime will be calculated even though Employee may be required on occasion to work over 40 hours in a work week.

GENERAL TERMS AND CONDITIONS

1.0 Definitions

1.1 "Area of Operations" shall mean the area within the Client's operational control where

CIS-QF-381a Rev-2



Employee performs or is expected to perform Services.

- 1.2 "Required Standard of Performance" shall mean i) in a good and workmanlike manner, in accordance with generally accepted International industry practice for the industry in which the Services are to be provided, ii) in compliance with the requirements of this Agreement and iii) in compliance with applicable laws and regulations, applicable codes and standards imposed by law, and applicable codes and standards which have been adopted by Client or Company and notified to Employee.

2.0 Exhibits, Policies and Guidelines

- 2.1 If a conflict exists between the body of this Agreement and any exhibit, policy or guideline, the body prevails to the extent of the conflict.
- 2.2 If a conflict exists between the exhibits, policies or guidelines or within an exhibit, policy or guideline as they apply to Employee, the provision that imposes the more onerous obligation on Employee prevails to the extent of the conflict.

3.0 Responsibilities and Duties of the Employee

- 3.1 Employee shall perform the Services in accordance with all of the terms and conditions of the Agreement and the Required Standard of Performance throughout the duration of the Agreement and to the satisfaction of Company and Client. Employee warrants that all work shall be of a safe and high standard in every respect.
- 3.2 Employee shall provide copies of any required certifications to the Company prior to commencing Services. In the event Employee commences Services prior to obtaining approval for all required background checks, certifications and any other verification qualifications, Employee may be terminated immediately in the event background checks, certifications and any other verification qualifications are disapproved.
- 3.3 Employee agrees to execute additional documentation required by Company for the performance of the Services, including any required information technology, confidentiality, and security agreements.
- 3.4 While inside the Area of Operations, Employee shall comply with all instructions which are provided to Employee concerning health, environmental, safety, and information technology security practices and procedures to be followed in the performance of the Services, and all applicable health, environmental and safety laws and regulations.

4.0 At-Will Employment

- 4.1 Employee may be retained by Company for the purpose of completing an assignment with Client with a specific term or duration. However, notwithstanding that fact, Employee acknowledges that employment is on an at-will basis, meaning that either Employee or Company may terminate the employment relationship at any time, without cause or advance notice. Employee's employment at-will status can only be modified in a written agreement signed by Employee and an officer of the Company.
- 4.2 Employee expressly agrees that Employee is a W-2 employee of Company and is not employed by the Client.
- 4.3 Employee is subject to a 90 day probationary period from the date employee begins professional service.

CIS-QF-381a Rev-2

5.0 Compensation

Company shall provide Employee compensation at the rate set forth herein; however, Company may modify compensation and benefits from time to time, in its discretion.

6.0 Payroll and Record Keeping

- 6.1 Employee shall complete timesheets and expense claim forms (where applicable) and submit to Client representative for approval. If Client disputes the number of hours that Employee claims to have worked, then the Company shall work with the Employee to resolve the disagreement. If the disagreement persists and the Company concludes that Employee submitted a fraudulent timesheet, then the Employee may be subject to disciplinary action, including immediate termination. The Employee shall ensure that Employee has Client approval prior to incurring business expenses for which Employee expects reimbursement from the Company. All timesheets and expenses are due in accordance with the attached payroll schedule. Expense claim forms must be supported by original receipts.
- 6.2 Employee must maintain a record of the total hours worked each day. These hours must be accurately recorded on the timesheet provided to Employee by Company upon commencement of Services. Employee must sign each timesheet to verify that the reported hours worked are complete and accurate.
- 6.3 Employee must verify immediately correct payment for all hours worked each workweek. If Employee believes payments have been subject to any improper deductions or that payment does not accurately reflect all hours worked, Employee should report the concerns to a Company supervisor immediately. Every effort will be made to take corrective action when errors in payment have occurred.
- 6.4 Company shall have the right to garnish and deduct from Employee's pay garnishment and other court ordered withholdings as permitted by law.

7.0 Taxation.

- 7.1 Unless otherwise stated herein, Company may at all times during the continuance of the Services make all such deductions of or on account of income tax, social taxes and such other taxes, contributions, levies or imposts as may from time to time be deductible by or due from the Agreement in respect of or in connection with the monies paid by the Company to Employee.
- 7.2 In the event Employee changes work locations in the performance of Services, Employee shall notify in writing the appropriate Company representative at Company's outbound and inbound work location offices.

8.0 Ethics and Conflicts of Interest

- 8.1 Employee shall not, directly or indirectly pay any employee, officer, director, or agent of Client, nor favor any employee, officer, director, or agent of Client, or designee of such employee, officer, director, or agent of Client with gifts or entertainment or other benefit of significant cost or value, or with services or goods sold at less than market value, nor enter into business arrangements with any employee, officer, director, or agent of Client.
- 8.2 Employee acknowledges that Employee has read and agrees to fully comply with the Code of Business Ethics policy which has been provided to Employee by Company. Failure to comply with this policy will cause Employee to be subject to disciplinary action which could result in immediate termination.

9.0 Work Made for Hire and Intellectual Property

All notes, memoranda, reports, drawings, blueprints, manuals, materials, files, programs, data and other papers and records of any kind which shall come into Employee's possession, or are developed by Employee, at any time after the commencement of employment with the Company or work with Company's Clients, relating to any inventions or Confidential Information, shall be works for hire and the sole and exclusive property of the Company or Company's Clients. This property shall be surrendered to the Company or Company's Clients upon termination of employment with the Company, or upon request by the Company or Company's Clients, and at any other time either during or after the termination of such employment.

10.0 Review of Employee Handbook

Employee agrees to read and abide by the terms of Company's Employee Handbook which can be accessed as directed by Company.

11.0 Integration

This Agreement, together with the Employee Confidential Information and Inventions Assignment Agreement, contains the entire agreement of the parties and supersedes any prior agreements between the parties or promises made to Employee by anyone, whether oral or written. This Agreement may not be modified, altered or amended except in a written agreement executed by Employee and a duly authorized agent of Company.

12.0 Binding Effect

This Agreement shall be binding and effective upon Company and its successors and assigns, and upon Employee, Employee's heirs and representatives. Employee may not assign any rights or obligations under this Agreement.

13.0 Governing Law and Choice of Venue

Any dispute under this Agreement shall be brought in the state or federal courts of Harris County, Texas, and the laws of the State of Texas shall govern the validity, construction, and interpretation of the rights and duties of the parties under this.

Exhibit A

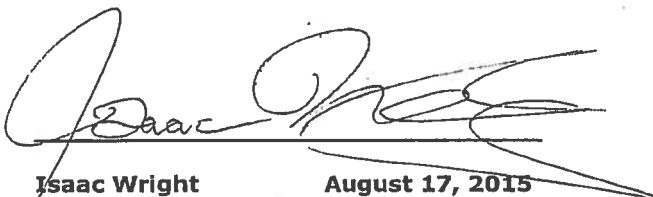
Compensation & Expenses

Note: Any changes to this Exhibit must be approved by client, agreed to by Employee and Cenergy, reduced to written form and attached to the Contract. This Exhibit A is made effective the 17th day of August 2015.

Base Salary: Salary will be paid based on a daily rate equivalent to \$485.95/day, working a 14/14 schedule, subject to deductions for taxes and other withholdings as required by law or the policies of the company.

Expenses: Must be approved by Client.

Allowable Expenses (circle		Amount/Unit/ Conditions
Per Diem	Yes	\$25.00/day



Isaac Wright **August 17, 2015**

14.0 Confidentiality and Representations of Employee

14.1 As a Company employee, Employee will be expected to sign and comply with the Employee Confidential Information and Inventions Assignment Agreement, attached hereto as **Exhibit A**, which prohibits unauthorized use or disclosure of Company's proprietary information.

15.0 Counterpart Execution

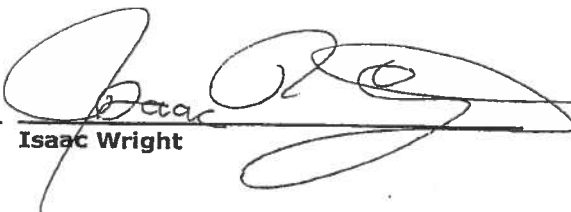
This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

The parties execute this Agreement on the dates written below but effective the date first above written, and agree to all terms and conditions.

By and on behalf of
Cenergy International Services, LLC

Isaac Wright

Human Resources



Isaac Wright

Isaac Wright