



Rule of Civil Procedure 23.<sup>1</sup>

### **JURISDICTION AND VENUE**

1. Jurisdiction over the FLSA claim is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
2. Jurisdiction over the PMWA claim is proper under 28 U.S.C. § 1367.
3. Venue is proper under 28 U.S.C. § 1391.

### **PARTIES**

4. Plaintiff is an individual residing in Cogan Station, Pennsylvania (Lycoming County).
5. Plaintiff is an employee covered by the FLSA and the PMWA.
6. Defendant Grant Production Testing Services, Inc. (“Grant Inc.”) is a corporate entity registered to do business in the Commonwealth of Pennsylvania, and regularly conducting business within this judicial district. Specifically, Grant Inc. has its headquarters and a shop located in Williamsport, PA.
7. Defendant Grant Production Testing Services Ltd. (“Grant Ltd.”) is a corporate entity headquartered in Canada.
8. Defendant Cathy Mason (“Mason”) is an individual residing,

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<sup>1</sup> FLSA collective action claims and Rule 23 class action claims may proceed together in the same lawsuit. *See Knepper v. Rite Aid Corp.*, 675 F.3d 249 (3d Cir. 2012).

upon information and belief, in Canada.

9. Defendant Grant Stevens (“Stevens”) is an individual residing, upon information and belief, in Canada.

10. Defendants are employers covered by the FLSA and the PMWA.

### **FACTS**

11. Grant Inc. and Grant Ltd. are companies specializing in oil and gas well production testing. Grant Inc. and Grant Ltd. were joint employers of Plaintiff and other Field Employees. Grant Inc. and Grant Ltd. jointly employ high-ranking employees, such as Mason and Stevens, whom are directly responsible for the corporate policies and practices challenged in this lawsuit. Grant Inc. and Grant Ltd. exerted significant control over Plaintiff and other Field Employees and failed to pay Plaintiff and other Field Employees overtime premium for hours worked over 40 per week.

12. Mason is the HR Payroll Controller for Grant Inc. and the HR Payroll Manager for Grant Ltd. Throughout her employment, Mason has exerted significant control over Plaintiffs and other Field Employees and was personally aware of and personally responsible for the failure to pay Plaintiff and other Field Employees overtime premium for hours worked over 40 per week.

13. Stevens is the President for both Grant Inc. and Grant Ltd.

Stevens had operational control over Grant Inc. and Grant Ltd. and made decisions concerning their day-to-day operations. Stevens exerted significant control over Plaintiff and other Field Employees and was responsible for the failure to pay Plaintiff and other Field Employees overtime premium for hours worked over 40 per week.

14. During the three-year time period relevant to this lawsuit, Defendants have employed over thirty employees who perform work at oil and gas rigs located throughout the United States, including within this judicial district. These individuals hold various job titles such as, for example, “Flowback Operator,” “Well Test Operator”, “Operator,” “Night Operators,” “Supervisors,” “Senior Supervisors” and are referred to herein as “Field Employees.”

15. Plaintiff was employed by Defendants as a Field Employee from approximately January 2014 until May 2015.

16. Defendants paid Plaintiff and other Field Employees on a day-rate basis.

17. For example, Defendants paid Plaintiff a day rate of \$220.00 for “Field Day[s]” and \$110.00 for “Shop Day[s].”

18. Each Field Day shift typically lasts approximately 12 hours, while each Shop Day shift lasts approximately 8 hours.

19. Plaintiff and other Field Employees regularly work over 40 hours per week.

20. For example, during the sixteen day period ending January 31, 2014,<sup>2</sup> Defendants credited Plaintiff with working 14 Field Days and 2 Shop Days, which represents approximately 184 hours.

21. Even though both the FLSA and the PMWA entitle day-rate employees to extra overtime premium compensation for hours worked over 40 per week, *see, e.g.*, 29 C.F.R. § 778.112; 34 Pa. Code § 231.43(b), Defendants did not pay Plaintiff and other Field Employees any extra overtime premium compensation for their overtime hours.

22. By failing to pay the overtime premium to Plaintiff and other Field Employees, Defendants have acted willfully and with reckless disregard of clearly applicable FLSA provisions.

### **CLASS/COLLECTIVE ACTION ALLEGATIONS**

23. Plaintiff brings his FLSA claim as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf of all individuals employed by Defendants in Pennsylvania during any time between June 1, 2012 and July 15, 2015 and assigned (in whole or in part) to work at oil or gas facilities located in the United States.

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<sup>2</sup> Defendants pay their Field Employees on a “semi-monthly” basis rather than weekly or bi-weekly.

24. Plaintiff's FLSA claim should proceed as a collective action because Plaintiff and other potential members of the collective, having worked pursuant to the common policies described herein, are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law.

25. Plaintiff brings his PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all individuals employed by Defendants in Pennsylvania during any time between June 1, 2012 and July 15, 2015 and assigned (in whole or in part) to work at oil or gas facilities located in the Commonwealth of Pennsylvania.

26. Class action treatment of Plaintiff's PMWA claim is appropriate because, as alleged below, all of Federal Rule of Civil Procedure 23's class action requisites are satisfied.

27. The class includes 34 individuals, all of whom are readily ascertainable based on Defendants' standard payroll records and are so numerous that joinder of all class members is impracticable.

28. Plaintiff is a class member, his claims are typical of the claims of other class members, and he has no interests that are antagonistic to or in conflict with the interests of other class members.

29. Plaintiff will fairly and adequately represent the class members

and their interests, and he has retained competent and experienced counsel who will effectively represent the class members' interests.

30. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Defendants' companywide timekeeping and pay policies, as summarized herein. The legality of these policies will be determined through the resolution of generally applicable legal principles to a common set of facts.

31. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

**COUNT I**  
**(Alleging FLSA Violations)**

32. All previous paragraphs are incorporated as though fully set forth herein.

33. The FLSA requires that employees receive overtime premium compensation "not less than one and one-half times" their regular pay rate for hours worked over 40 per week. *See* 29 U.S.C. § 207(a)(1).

34. Defendants violated the FLSA by failing to pay Plaintiff and the proposed FLSA collective any overtime premium for hours worked over 40

per week.

**COUNT II**  
**(Alleging PMWA Violations)**

35. All previous paragraphs are incorporated as though fully set forth herein.

36. The PMWA requires that employees receive overtime premium compensation “not less than one and one-half times” the employee’s regular pay rate for hours worked over 40 per week. *See* 43 P.S. § 333.104(c).

37. Defendants violated the PMWA by failing to pay Plaintiff and other Rule 23 class members any overtime premium for hours worked over 40 per week.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of himself and other members of the class/collective, seeks the following relief:

A. An order permitting this action to proceed as a collective and class action;

B. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all members of the FLSA collective informing them of this action and permitting them to join (or “opt-in” to) this action;

C. Unpaid wages and prejudgment interest to the fullest extent



permitted under federal and state law;

D. Liquidated damages to the fullest extent permitted under the FLSA;

E. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under federal and state law; and

F. Such other and further relief as this Court deems just and proper.

**JURY TRIAL DEMANDED**

Plaintiff demands a jury trial as to all claims so triable.

Date: August 5, 2016

Respectfully,

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