

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

MATTHEW KREAMER, on behalf of	:	CIVIL ACTION
himself and similarly situated	:	
employees,	:	ELECTRONICALLY FILED ON
	:	June 1, 2015
Plaintiff,	:	
v.	:	CLASS/COLLECTIVE ACTION
	:	
GRANT PRODUCTION TESTING	:	
SERVICES INC.,	:	
	:	
Defendant.	:	

COMPLAINT – CLASS/COLLECTIVE ACTION

Plaintiff Matthew Kreamer (“Plaintiff”), on behalf of himself and similarly situated employees, brings this class/collective action lawsuit against Defendant Grant Production Testing Services Inc. (“Defendant”), seeking all available relief under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, and the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, *et seq.* Plaintiff’s FLSA claim is asserted as a collective action under FLSA Section 16(b), 29 U.S.C. § 216(b), while his PMWA claim is asserted as a class action under Federal Rule of Civil Procedure 23.¹

¹ 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).

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 is a corporate entity registered to do business in the Commonwealth of Pennsylvania, and regularly conducting business within this judicial district.
7. Defendant is an employer covered by the FLSA and the PMWA.

FACTS

8. Defendant is a company specializing in oil and gas well production testing.
9. During the three-year time period relevant to this lawsuit, Defendant has employed hundreds of 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,”² and are referred to herein as “Field Employees.”

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

11. Defendant paid Plaintiff other Field Employees on a day-rate basis.

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

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

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

15. For example, during the sixteen day period ending January 31, 2014,³ Defendant credited Plaintiff with working 14 Field Days and 2 Shop Days, which represents approximately 184 hours.

16. Even though both the FLSA and the PMWA entitle day-rate employees to extra overtime premium compensation for hours worked over

² In the absence of discovery, Plaintiff is not aware of each of the formal job titles that Defendant has given to every employee performing work at oil and gas rigs throughout the United States.

³ Defendant pays its Field Employees on a “semi-monthly” basis rather than weekly or bi-weekly.

40 per week, *see, e.g.*, 29 C.F.R. § 778.112; 34 Pa. Code § 231.43(b), Defendant did not pay Plaintiff and other Field Employees any extra overtime premium compensation for their overtime hours.

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

CLASS/COLLECTIVE ACTION ALLEGATIONS

18. 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 Defendant within the past three years and assigned (in whole or in part) to work at oil or gas facilities located in the United States.

19. 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.

20. Plaintiff brings his PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all individuals employed by Defendant within the past three years and assigned (in whole or in part) to work at oil or gas facilities located in the Commonwealth of Pennsylvania.

21. 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.

22. The class, upon information and belief, includes over 100 individuals, all of whom are readily ascertainable based on Defendant's standard payroll records and are so numerous that joinder of all class members is impracticable.

23. 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.

24. 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.

25. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Defendant's 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.

26. 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)

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

28. 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).

29. Defendant 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)

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

31. 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).

32. Defendant 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: June 1, 2015

Respectfully,

/s/ R. Andrew Santillo

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**pro hac vice admission anticipated*

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