

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

STEVEN E. GORRELL, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

WAKE COUNTY,

Defendant.

Civil Action No. 5:21-CV-00129

NOTICE OF PENDING LAWSUIT

TO: ALL INDIVIDUALS WHO WERE OR ARE EMPLOYED BY DEFENDANT IN WAKE COUNTY, NORTH CAROLINA, AS FULL-TIME PARAMEDICS, EMERGENCY MEDICAL TECHNICIANS, FIELD TRAINING OFFICERS, OR IN SIMILAR POSITIONS, WHO WORKED THE LATE PEAK OR NIGHT SHIFTS ON ANY FRIDAY NIGHTS/SATURDAY MORNINGS WHICH OVERLAPPED WORKWEEKS AT ANY TIME WITHIN THE THREE (3) YEARS PRIOR TO THE DATE OF COMMENCEMENT OF THIS ACTION, THROUGH THE PRESENT, AND WHO WERE ALLEGEDLY NOT COMPENSATED AT THE APPROPRIATE ONE AND ONE-HALF (1.5) OF THEIR REGULAR HOURLY RATE FOR ALL HOURS WORKED IN EXCESS OF FORTY (40) PER WEEK.

RE: WAGE AND HOUR LAWSUIT FILED AGAINST WAKE COUNTY

Note: You have an important decision to make in this case. You must decide whether you would like to join this lawsuit. Please read this Notice carefully.

This Notice is not an expression of any opinion by the Court about the merits of any claims asserted by Plaintiff Steven E. Gorrell or defenses asserted by Defendant Wake County, as this is ongoing litigation in which those issues have not yet been decided.

I. INTRODUCTION

The purpose of this Notice is to (1) inform you of the existence of a collective-action lawsuit against Wake County (“Defendant” or “Wake County”) that you may join, (2) advise you of how your rights may be affected by this lawsuit, and (3) instruct you on the procedure for participating in this lawsuit, if you so choose.

II. DESCRIPTION OF THE LAWSUIT

On March 16, 2021, Steven E. Gorrell (“Plaintiff”), on behalf of himself and others similarly situated, filed a lawsuit in the U.S. District Court for the Eastern District of North Carolina, Western Division, against Defendant. Plaintiff alleges that Defendant has violated the Fair Labor Standards Act (“FLSA”) by not compensating EMTs/Paramedics and other similarly situated positions who worked the Late Peak or Night shifts on any Friday nights/Saturday mornings which overlapped workweeks at the proper premium overtime rate of one and one-half (1.5) times the employees’ regular hourly rate for all hours worked in excess of forty (40) per week because Defendant required these employees to record all hours worked on the day they started even when a portion of the hours worked were on the following calendar day. Plaintiffs seek to recover overtime wages due, including losses to Plaintiffs’ retirement-benefits plans, liquidated damages in an equal amount, reasonable attorneys’ fees and costs, and all other legal and equitable relief as the Court deems just and proper.

Wake County denies that it violated the FLSA and maintains that it has complied with all applicable laws, including the FLSA.

The Court has not yet decided whether this lawsuit has any merit.

III. COMPOSITION OF CLASS

Plaintiff brings this collective action on behalf of:

All individuals who were or are employed by Defendant in Wake County, North Carolina, as full-time paramedics, emergency medical technicians, field training officers, or in similar positions, who worked the Late Peak or Night shifts on any Friday nights/Saturday mornings which overlapped workweeks at any time within the three (3) years prior to the date of commencement of this action, through the present, and who were not compensated at the appropriate one and one-half (1.5) of their regular hourly rate for all hours worked in excess of forty (40) per week.

IV. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

According to Defendant’s personnel records, you were employed by Wake County in one or more of the positions included in this case and you worked the Late Peak or Night shifts on any Friday nights/Saturday mornings which overlapped workweeks during the relevant time period. Therefore, you may join in the FLSA claim raised in this lawsuit by completing and mailing, faxing, or emailing a signed copy of the enclosed Consent to Join Form to Plaintiff’s lawyers at the following address:

Oxendine Barnes and Associates PLLC
ATTN: Holly Mabe
6500 Creedmoor Road, # 100

Raleigh, North Carolina 27613
Telephone: (919) 848-4333
Fax: (919) 848-4707
holly@oxendinebarnes.com

Your Consent to Join Form must be postmarked by no later than **October 11, 2021**. A first-class, self-addressed, and stamped envelope is included for your convenience. Plaintiff's lawyers will file with the Court all Consent to Join Forms that have been filled out, signed, and postmarked on or before **October 11, 2021**. If you file a Consent to Join Form, your continued right to participate in the suit may depend upon a later decision by the Court that you are an appropriate participant in accordance with federal law.

V. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit and complete the steps in Section IV, you will become a plaintiff in this lawsuit and will be bound by any ruling, judgment, or settlement, whether it is favorable or unfavorable. While the lawsuit is proceeding, you may be required to answer written questions under oath, produce documents relating to your claim, testify at an oral deposition under oath, testify at trial under oath, or otherwise participate in this lawsuit.

If you choose to join this lawsuit and complete the steps in Section IV, you are agreeing to representation by Plaintiff's lawyers. The specific terms and conditions of representation are set forth in Section IX and in the Consent to Join Form.

If you choose to join this lawsuit and complete the steps in Section IV, you are agreeing to designate Plaintiff as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiff's attorneys concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions made and entered into by the Plaintiff and any other representatives will be binding on you if you join this lawsuit.

If you choose to join this lawsuit and Plaintiff prevails, you may be entitled to recover compensation.

If you choose to join this lawsuit and Plaintiff does not prevail, you will not be responsible for paying court costs and expenses.

VI. NO LEGAL EFFECT IF YOU CHOOSE NOT TO JOIN THIS LAWSUIT

If you do not wish to be a part of this lawsuit, you do not need to do anything. If you do not join this lawsuit, you will not be a part of the lawsuit in any way, and you will not be bound by or affected by any ruling, judgment, or settlement (favorable or unfavorable). You will not receive a share of any judgment or settlement obtained if Plaintiff prevails. If you choose not to join this lawsuit, you will retain any rights you may have under the FLSA.

VII. STATUTE OF LIMITATIONS

Plaintiffs' claims in this lawsuit are limited to a two- or three-year statute of limitations, which will be determined by the Court. If you choose to join this lawsuit, you may be able to recover damages if you were improperly denied compensation only for time worked within the two or three years prior to the date you file your Consent to Join Form. If you choose not to join this lawsuit, or choose to bring your own action, some or all of your potential claims may later be barred by the applicable statute of limitations.

VIII. NO RETALIATION PERMITTED

Federal law prohibits retaliation against employees for exercising their rights under the FLSA. Therefore, Defendant is specifically prohibited from discharging you or retaliating against you in any other manner just because you choose to participate in this lawsuit or exercise your rights under the FLSA.

IX. YOUR LEGAL REPRESENTATION IF YOU JOIN THIS LAWSUIT

If you choose to join this lawsuit, your interests will be represented by counsel for Plaintiff. Plaintiff's counsel are:

Ryan D. Oxendine
James A. Barnes, IV
Spencer S. Fritts
Oxendine Barnes and Associates PLLC
6500 Creedmoor Road, # 100
Raleigh, North Carolina 27613
Telephone: (919) 848-4333
Fax: (919) 848-4707
www.oxendinebarnes.com

Plaintiff's attorneys are being paid on a contingency basis, which means that if there is no recovery, there will be no attorneys' fees. If there is a recovery, Plaintiff's attorneys will receive a part of any settlement obtained or money judgment entered in favor of all members of the class, or fees the Court directs Defendant to pay separately. Any payment of attorneys' fees will require approval of the Court.

Plaintiff's attorneys will advance necessary costs and out-of-pocket disbursements and expenses on your behalf in this lawsuit. In the event that necessary costs and out-of-pocket disbursements are not approved by the Court to be reimbursed from any settlement or judgment, or paid by Defendant, you will have no obligation to reimburse Plaintiff's attorneys for such costs.

X. FURTHER INFORMATION

For further information about this lawsuit, you may contact any attorney of your choosing, including Plaintiff's attorneys at the address or phone number provided above.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT. THE COURT TAKES NO POSITION REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR DEFENDANT'S DEFENSES. DO NOT CONTACT THE COURT, THE CLERK OF COURT, OR THE DISTRICT COURT JUDGE REGARDING THIS NOTICE. THEY ARE NOT PERMITTED TO ADDRESS YOUR INQUIRIES OR QUESTIONS.