

IN THE CIRCUIT COURT
OF HINDS COUNTY, MISSISSIPPI

PEGGY OATIS, EVELYN STANCIEL,
BOBBYE SHARKEY, FLORENCE RAMSEY,
BEATRICE WILLIAMS, ROSIE ERVIN, MAXINE
ODIE, and LEROY KENTER, JR., CHARLES WILLIS,
JOHNNY HOLT, ALFRED SPIKES, and CURTIS
CARRIDINE, individually and on behalf of all
others similarly situated

PLAINTIFFS

vs.

CIVIL ACTION NO. _____

THE STATE OF MISSISSIPPI,
DR. LESTER C. NEWMAN, both individually
and in his official capacity as President of Mississippi
Valley State University, and MS. PERNA CARTER, both
individually and in her official capacity as Director of
Student Affairs for Mississippi Valley State University

DEFENDANTS

COMPLAINT

COME NOW the Plaintiffs, PEGGY OATIS, EVELYN STANCIEL,
BOBBYE SHARKEY, FLORENCE RAMSEY, BEATRICE WILLIAMS, ROSIE
ERVIN, MAXINE ODIE, and LEROY KENTER, JR., CHARLES WILLIS, JOHNNY
HOLT, ALFRED SPIKES, and CURTIS CARRIDINE, individually and on behalf of all
others similarly situated and files this Complaint against the Defendants in this cause.

The Plaintiffs would show unto this Court as follows, to wit:

PARTIES

1. The Plaintiff Peggy Oatis is an adult resident citizen of Leland, Mississippi;
2. The Plaintiff Evelyn Stanciel is an adult resident citizen of Greenwood,

Mississippi;

3. The Plaintiff Bobby D. Sharkey is an adult resident citizen of Greenville,
Mississippi;
4. The Plaintiff Florence Ramsey is an adult resident citizen of Greenwood,
Mississippi;
5. The Plaintiff Beatrice Williams is an adult resident citizen of Itta Bena,
Mississippi;
6. The Plaintiff Rosie Ervin is an adult resident citizen of Itta Bena,
Mississippi;
7. The Plaintiff Maxine Odie is an adult resident citizen of Itta Bena,
Mississippi;
8. The Plaintiff Leroy Kenter, Jr. is an adult resident citizen of Greenwood,
Mississippi;
9. The Plaintiff Charles Willis is an adult resident citizen of Gore Springs,
Mississippi;
10. The Plaintiff Johnny Holt is an adult resident citizen of Greenwood,
Mississippi;
11. The Plaintiff Alfred Spikes is an adult resident citizen of Greenwood,
Mississippi;
12. The Plaintiff Curtis Carridine is an adult resident citizen of Itta Bena,

Mississippi;

13. Insofar as the Plaintiffs pursue certain claims against the Defendants pursuant to the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b) the Plaintiffs also bring this action on behalf of all others similarly situated;
14. The Defendant State of Mississippi may be served with process via personal service upon the Attorney General for the State of Mississippi;
15. The Defendant Dr. Lester C. Newman is an adult resident citizen of Leflore County, Mississippi and may be served with process via personal service upon him at 14000 Highway 82 West, Itta Bena, Mississippi 38941;
16. The Defendant Perna Carter is an adult resident citizen of Leflore County, Mississippi and may be served with process via personal service upon her at 14000 Highway 82 West, Itta Bena, Mississippi 38941;

JURISDICTION AND VENUE

17. This Court has jurisdiction over this matter pursuant to Miss. Code Ann. § 9-7-81. Venue is proper in this Court pursuant to Miss. Code Ann. § 11-11-3 ;
18. This Court further has jurisdiction under 29 U.S.C. § 217, as well as under the inherent powers of this Court, to issue injunctive orders in this matter;

FACTUAL BACKGROUND

19. The Plaintiffs are all employees of Mississippi Valley State University

(“Valley”), an arm of the Defendant State of Mississippi. All of the Plaintiffs have all served as “Residence Hall Directors” for the University. Each of the Defendants were hired by the Defendant State of Mississippi as state employees and were provided a “Personnel Handbook,” a copy of which is attached as Exhibit “A” to this Complaint and which was distributed by the State of Mississippi through Valley to its employees;

20. During the course of their duties, the Plaintiffs have been required to work regular shifts of hours of between sixty (60) and one hundred (100) hours per work week, depending upon whether the Plaintiffs were required to work weekend shifts. A representative schedule of the Plaintiffs’ work hours during a particular period is attached hereto as Exhibit “B” to this Complaint;
21. While these shifts have been altered on an annual basis in the past, the shifts have otherwise been static and unchanging. Despite the fact that the Plaintiffs were required to work far in excess of a regular forty (40) hour workweek, the Defendants have failed to pay to the Plaintiffs any overtime pay as required by the Fair Labor Standards Act as well as pursuant to the contractual agreement with the Plaintiffs and have only provided them pay for a regular forty (40) hour workweek throughout their employment;
22. The Defendants Newman and Carter intentionally, wilfully and without

justification prevented the payment of overtime wages to the Plaintiffs, as required by both the FLSA as well as the Plaintiffs' employment contract with the State of Mississippi. Moreover, the Defendants Newman and Carter have systematically retaliated against the Plaintiffs light of their complaints regarding overtime pay;

23. The Plaintiffs have made regular complaints that the Residence Hall Directors have not been paid overtime;
24. Upon information and belief, the Wage & Hour Division of the United States Department of Labor has informed the Defendants of their obligation to provide overtime pay to the Plaintiffs. Despite the complaints of the Plaintiffs and the directive of the United States Government, the Defendants have steadfastly refused to pay the Plaintiffs' overtime;
25. The Defendants' failure to provide overtime pay has been wilful and intentional;

CAUSES OF ACTION

Count One - Overtime Wages Under the FLSA

26. The Defendants' failure to provide overtime pay to the Plaintiffs constitutes a violation of the Fair Labor Standards Act and the Plaintiffs are entitled to recover overtime pay from the Defendants and all other relief provided by the FLSA, including liquidated damages and attorney's fees;

27. The Defendants repeated failures to pay overtime wages to the Plaintiffs constitute a continuing violation of the FLSA and therefore the Plaintiffs are entitled to recover all overtime wages due them since they began work for the University;

Count Two - Retaliation

28. The Plaintiffs have repeatedly voices their concerns to the Defendants regarding the fact that they have not been paid overtime wages as required by the FLSA. In response, the Defendants have retaliated against the Plaintiffs through various methods, including the reduction of their salary while other University employees were receiving raises in pay and the imposition of unreasonable work schedules while leaving the residence halls and residence hall students unattended for large periods of time;
29. Moreover, it is the Plaintiffs' understanding, upon information and belief, that their jobs will not be renewed for the coming year, solely because of their complaints that the University has failed to pay to the Plaintiffs the overtime wages due them;
30. Such conduct by the Defendants constitutes retaliation in violation of the provisions of 29 U.S.C. 215(a)(3), for which the Plaintiffs are entitled to recover damages. Further, the Plaintiffs are entitled to injunctive relief against the Defendants to prevent retaliation against them in the future;

Count Three - Breach of Contract

31. By creating and distributing an employee handbook which dictates aspects of the employment relationship between the Plaintiffs and the State of Mississippi, the State of Mississippi has set forth specific terms for the employment relationship;
32. Of the many provisions of the employment relationship set forth in the employee handbook, the State of Mississippi set forth provisions regarding to the payment of wages to the Plaintiffs. More specifically, the State of Mississippi agreed, promised and guaranteed to comply with the provisions of the Fair Labor Standards Act, including the Act's overtime pay provisions. In making this promise, the State of Mississippi engrafted onto the employment contract and adopted by reference the overtime wage provisions of the FLSA;
33. As the Defendant State of Mississippi has failed to pay overtime wages to the Plaintiffs as contracted and agreed, it is in breach of the employment contract with the Plaintiffs; further, this breach of contract is so outrageous as to justify the imposition of extra-contractual damages.

Count Four - Intentional Interference with Contractual Relations or Prospective Advantage

34. The intentional, malicious and bad faith conduct of the Defendants Newman and Carter constitute independent torts of the interference with the

Plaintiff's contractual relations with the State of Mississippi. Alternatively, the intentional, malicious and bad faith conduct of the Defendants Newman and Carter constitute interference with the prospective advantage of continued, or renewed, employment with Mississippi Valley State University to the present;

AD DAMNUM

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs pray for judgment against the Defendants in an amount determined by the trier of fact, to exceed the jurisdictional minimum of this Court and to consist of:

- A) Compensatory damages in an amount to be determined by the trier of fact, primarily consisting of all overtime wages due them since they have worked for the University;
- B) Extra-contractual damages for the Defendants' egregious and outrageous breach of contract;
- C) Punitive damages against the individual Defendants;
- D) Liquidated damages;
- E) An award of attorney's fees incurred in the pursuit of this cause;
- F) An award of costs associated with the pursuit of this action;
- G) Injunctive relief against the Defendants, in order to prevent future violations of the FLSA and to prevent retaliation against the

Plaintiffs for the assertion of their rights under the FLSA; and

H) Any other relief to which the Plaintiffs may be entitled.

Respectfully submitted, this the 29th day of August 2002.

PEGGY OATIS, EVELYN STANCIEL,
BOBBYE SHARKEY, FLORENCE RAMSEY,
BEATRICE WILLIAMS, ROSIE ERVIN,
MAXINE ODIE, and LEROY KENTER, JR.,
CHARLES WILLIS, JOHNNY HOLT,
ALFRED SPIKES, and CURTIS CARRIDINE,
individually and on behalf of all others similarly
situated,

by and through their Attorneys,

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BY: 

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