


KSP

AOC-105 Doc. Code: CI Rev. 1-07 Page 1 of 1 Commonwealth of Kentucky Court of Justice www.courts.ky.gov CR 4.02; CR Official Form 1	 CIVIL SUMMONS	Case No. <u>14-CI-00293</u> Court <input checked="" type="checkbox"/> Circuit <input type="checkbox"/> District County <u>Franklin</u>
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PLAINTIFF

STEPHEN BURKE ET AL.

RECEIVED

MAR 18 2014

OFFICE OF LEGAL SERVICES

VS.

DEFENDANT

KENTUCKY STATE POLICE
 919 VERSAILLES ROAD
 FRANKFORT Kentucky 40601

Service of Process Agent for Defendant:

HON. JACK CONWAY
 OFFICE OF THE ATTORNEY GENERAL
 700 CAPITOL AVE. STE. 118
 FRANKFORT Kentucky 40601

THE COMMONWEALTH OF KENTUCKY TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf** within **20 days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: 3/13/2014 By: Sally Jump Clerk
J.B. D.C.

Proof of Service	
This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:	

this _____ day of _____, 20____.	Served by: _____
	_____ Title

RECEIVED

MAR 18 2014

FILED
MAR 13 2014
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

OFFICE OF LEGAL SERVICES

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II

CIVIL ACTION NO. 14-CI-00293

Stephen Burke
1243 Nutwood St.
Bowling Green, KY 42104

COMPLAINT

PLAINTIFFS

Landry Collett
3101 Cumberland Ave.
Middlesboro, KY 40965

Jason Fuqua
2524 Hillbrooke Pkwy.
Owensboro, KY 42303

Ryan Gosser
3143 East Prong Locust Rd.
Bedford, KY 40006

Randall Honeycutt
6454 Hwy. 639 S
Albany, KY 42602

Matthew Hutti
15 East Settlers Way
Stanford, KY 40484

Jason McCowan
8770 Hwy. 490
East Bernstadt, KY 40729

Michael Sandbrink
754 Camelot Dr.
Cadiz, KY 42211

Kenny Yarber
1268 North Fork Rd.
Stanton, KY 40380

VS.

KENTUCKY STATE POLICE
Service of Process Agent:
Hon. Jack Conway
Office of the Attorney General
700 Capitol Avenue, Suite 118
Frankfort, KY 40601

DEFENDANTS

AND

RODNEY BREWER
In his official capacity as
Kentucky State Police Commissioner
Kentucky State Police Headquarters
919 Versailles Road
Frankfort, KY 40601

Come the Plaintiffs whose names are set forth in the above case caption, by and through counsel, and for their Complaint against the Defendants state the following:

INTRODUCTION

1. This action is brought by the Plaintiffs pursuant to the Fair Labor Standard Act (29 USC Sec. 201 et seq), hereinafter referred to as "FLSA, seeking compensatory and liquidated damages resulting from the willful violation of the Kentucky State Police (hereinafter "KSP") to compensate the Plaintiffs for the overtime hours expended in the care their canine charges.
2. In addition to the FLSA, some Plaintiffs' base their claims upon William Adams et al v. Transportation Cabinet, Commonwealth of Kentucky Personnel Board, Appeal Nos. 99-344, 99-345, 99-349 and 99-350 and the resulting practices and customs adopted by the Commercial Vehicle Enforcement (hereinafter "CVE") department regarding compensation of K9 officers for canine maintenance overtime.

PARTIES AND JURISDICTION

3. At all times complained of herein, the Plaintiffs, whose names and current addresses are set forth in the case caption and for purposes of economy will not be reiterated here, were each and everyone residents of the Commonwealth of Kentucky and remain residents of the state.
4. The Kentucky State Police (KSP) is a state government agency organized as a department of the Kentucky Justice and Public Safety Cabinet with headquarters located at 919 Versailles Road, Frankfort, Kentucky 40601.
5. Rodney Brewer is the acting Commissioner of the Kentucky State Police and in his official capacity is vested with the authority to make policy decisions within KSP regarding employee's compensation.
6. The Plaintiffs' damages exceed the minimal jurisdictional requirement of the Circuit Court.
7. Jurisdiction and venue are proper in the Franklin Circuit Court.

FACTS

8. The Plaintiffs are currently or within at least the previous three years have been employed as either CVE or KSP K9 officers vested with full responsibility for the care, custody, control and maintenance of their respective canine charges.
9. The KSP and CVE K9 handlers are required to house and care for their canine charges at their personal homes; the dogs are not housed in commercial kennels, but reside at the employees' personal residence in kennels constructed on the employees' properties.

10. The duties of a K9 Special Operations Unit Officer who has responsibility for a canine charge, over and above his handling in the field, include feeding, grooming, bathing, exercising, training, medicating, kennel maintenance, and transporting the dogs to veterinarians should the need arise (collectively referred to as “canine maintenance”)
11. On June 15, 1999 KSP adopted Standard Operating Procedure CN-08 regarding “Canine Care” and in relevant part that document states: “A handler shall be allowed five hours per week for canine maintenance. This five-hour block shall be utilized for the seven day per week responsibility of caring for the canine. A handler shall be required to maintain contact (radio, pager, or telephone) during the time period. This not only applies to those weeks the officer works, but any time the officer is on leave time (i.e. Compensatory, vacation, etc.), as long as the canine is not boarded at a kennel. It is the responsibility of the handler to inform the Special Operations Section timekeeper when the five hours were used during the week, and if additional time is needed.”
12. Prior to July 14, 2008, Commercial Vehicle Enforcement (CVE) was a department within the Division of Motor Carriers of the Kentucky Transportation Cabinet. On July 14, 2008, Governor Steve Beshear issued an executive order consolidating CVE under the control and command of KSP.
13. From October 17, 2000 through July 14, 2008, the K9 handlers of CVE were paid for their overtime hours expended in canine maintenance pursuant to a settlement agreement arrived at through a consolidated administrative appeal filed before the Kentucky Personnel Board and titled William Adams et al v. Transportation Cabinet, Commonwealth of Kentucky Personnel Board, Appeal Nos. 99-344, 99-345, 99-349 and 99-350. In 2000, CVE was still subject to the administrative jurisdiction of the Kentucky

Personnel Board and KRS Chapter 337 setting forth the Kentucky Wage and Hour Laws that are very similar to the mandates of the FLSA.

14. As early as 2005, after issuance of Standard Operating Procedure CN-08, KSP command began threatening KSP K9 handlers that if they attempted to claim overtime compensation for the time they expended in caring for their canine charges, they would be transferred out of the K9 Special Operations Unit.
15. Shortly after July 14, 2008, after CVE came under the command and control of KSP, an email went out to all CVE K9 handlers informing them that CVE K9 handlers would no longer be permitted to claim any overtime compensation for canine maintenance and the reason given by then KSP Capt. Eric Walker, the author of the email message, was that CVE could not claim their overtime compensation because the KSP K9 handlers were not permitted to claim any overtime compensation for canine maintenance.
16. From the fall of 2008 through early 2009, CVE Sgt. Tony Wilson reiterated multiple times to the CVE K9 handlers that canine maintenance overtime was no longer going to be paid.
17. KSP commanders threatened the K9 handlers on more than one occasion during their annual recertification meetings that should any K9 handler wish to complain or disagree with KSP's decision to not compensation the K9 handlers for canine maintenance overtime, they [the K9 officers] were welcome to transfer out of the K9 Special Operations Unit.
18. KSP legal staff, command and the Commissioner had full knowledge of the CVE settlement before the Kentucky Personnel Board dated October 17, 2000, the Kentucky Wage and Hour Laws and the FLSA.

19. Capt. Matt Feltner was KSP legal counsel for at least the past three years (until December 2013), was aware of the FLSA, and had knowledge of the fact the Plaintiffs were being denied their rights in violation of the FLSA to claim overtime for canine maintenance.
20. Sgt. Tackett Wilson, a commander in the KSP K9 Special Operations Unit, attended a seminar on legal issues specifically applicable to law enforcement K9 personnel that was conducted by one of the country's premier K9 law enforcement experts, Deputy Sheriff Terry Fleck out of Dayton, Nevada (canine handler now retired).
21. When Sgt. Tackett Wilson returned from Terry Fleck's seminar, he attempted to address the issue of KSP's violation of the FLSA to his commanders, but was ordered to remain silent on the subject.
22. On one occasion, even after being informed that KSP would not permit K9 officers to claim compensation for canine maintenance, one of the Plaintiffs submitted a time record requesting canine maintenance overtime, and he was succinctly informed that KSP didn't pay overtime compensation for canine maintenance and that he should not submit any future requests for the compensation. His request was denied.
23. KSP command, with the full knowledge, support and instruction from Commissioner Rodney Brewer, has engaged in willful and intentional conduct to deny the Plaintiffs' their compensation for the overtime expended in the maintenance and care of their canine charges.

COUNT I

24. The facts and allegations above are incorporated as if fully set forth herein.
25. The actions, conduct and policies of the Defendants constitute a willful violation of the FLSA, specifically 29 USC §207.

26. As a direct result of the Defendants violations of the FLSA, the Plaintiffs have suffered damages well in excess of the jurisdictional limits of this Court and are entitled to collect compensatory damages and liquidated damages in accordance with 29 USC §216 of the FLSA

COUNT II

27. The facts and allegations above are incorporated as if fully set forth herein.

28. The terms of the October 17, 2000, settlement agreement in the matter of William Adams et al v. Transportation Cabinet, Commonwealth of Kentucky Personnel Board, Appeal Nos. 99-344, 99-345, 99-349 and 99-350 became the practice and custom of CVE under which the CVE K9 handlers were hired and employed prior to July 14, 2008.

29. KSP should be legally obligated to recognize the employment practices and customs of CVE regarding compensation of K9 handlers for canine maintenance overtime.

30. The actions, conduct and policies of the Defendants constitute a willful violation and breach of the terms and conditions of the October 17, 2000, settlement agreement and the practices and customs under which CVE hired, employed and operated prior to KSP's take over in July of 2008.

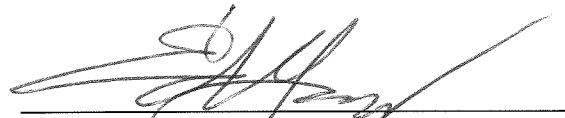
31. CVE K9 handlers are entitled to the benefit of the employment terms under which they were employed prior to KSP's take over in July 2008.

32. As a result of KSP's willful and intentional disregard of CVE K9 handlers' employment terms, conditions, practices and customs, CVE K9 handlers have suffered damages well in excess of the jurisdictional limits of this Court and are entitled to collect compensatory and punitive damages from July 14, 2008 to the present.

WHEREFORE, the Plaintiffs demand the following relief:

1. A judgment against the Defendants for compensatory damages in an amount to be proven at trial;
2. A judgment against the Defendants for liquidated damages in an amount to be proven at trial;
3. A judgment against the Defendants for punitive damages in an amount to be proven at trial;
4. A judgment against the Defendants for attorney fees and costs;
5. For a trial by jury; and
6. For such other relief as the court deems just and appropriate.

Respectfully submitted,



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