

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DARYL VELDHOFF, WILLIAM COLLINS,  
JOSEPH PILLARS, JAMES PHILLIP BLAIR,  
THOMAS WENDZEL, BRAD MURDOCK,  
BRAD UMBANHOWER, CINDY WINANS,  
OTIS RIGGINS, GORDON FERGUSON,  
STEVE BLACKMORE, CLAYTON K. SMITH,  
IV, CARL JESSER, BRENT HOISER, DAVID  
PETEK, RUBY ROLAND, COLE BREVIS  
and CHRIS MIKUSKO,

HON.

DOCKET NO.

Plaintiffs,

v.

ENTERGY NUCLEAR OPERATIONS,  
INC.,

Defendant.

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Katherine Smith Kennedy (P54881)  
Pinsky, Smith, Fayette & Kennedy, LLP  
Attorneys for Plaintiff  
146 Monroe Center Street NW - Ste 805  
Grand Rapids, MI 49503  
(616) 451-8496

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COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their attorneys, Pinsky, Smith, Fayette and  
Kennedy, LLP, hereby represents:

## INTRODUCTION

This Complaint arises out of the Defendant's misclassification of the Plaintiffs as exempt from the overtime requirements of the Fair Labor Standards Act, 29 U.S.C. §201 et seq. As a result of its misclassification, Plaintiffs are entitled to overtime pay for hours worked in excess of forth per week.

## PARTIES

1. Plaintiff Daryl Veldhoff is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

2. Plaintiff Bill Collins is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

3. Plaintiff Joe Pillars is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

4. Plaintiff Dennis Perry is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

5. Plaintiff Phil Blair is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

6. Plaintiff Tom Wendzel is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

7. Plaintiff Brad Umbanhowar is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

8. Plaintiff Cindy Winans is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

9. Plaintiff Otis Riggins is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

10. Plaintiff Will Adams is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

11. Plaintiff Corey James is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

12. Plaintiff Tim Kerlin is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

13. Plaintiff Phil Click is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

14. Plaintiff Gordon Ferguson is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

15. Plaintiff Steve Blackmore is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

16. Plaintiff Clayton Smith is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

17. Plaintiff Carl Jesser is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

18. Plaintiff Brent Hoiser is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

19. Plaintiff Dave Petek is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

20. Plaintiff Ruby Roland is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

21. Plaintiff Chris Mikusko is an individual who resides in the Western District of Michigan and is an employee for all purposes under the Act.

22. Defendant Entergy Nuclear Operations, Inc. (“Defendant” or “Entergy”) is a foreign corporation which operates the nuclear plant located in Covert Township, Michigan, and is an employer for all purposes under the Act.

### JURISDICTION AND VENUE

23. This is an action asserting claims, inter alia, pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §201 et seq.

24. This Court has subject matter jurisdiction over the matter pursuant to 29 U.S.C. §216 and 28 U.S.C. §1331.

25. The Defendant has a place of business in this district and the Plaintiffs reside in this district.

26. Venue is proper in this district pursuant to 28 U.S.C. §1391(b).

### BACKGROUND

27. Defendant operates the Entergy Nuclear plant located in Covert Township, Michigan.

28. All of the Plaintiffs are or were at relevant times employed by Defendant to provide security services at the Palisades Nuclear Plant.

29. All of the Plaintiffs are or were at relevant times classified as Security Shift Supervisors and/or CAS/SAS Supervisors, and their duties and responsibilities did not and do not rise to a level as an exempt position.

30. Despite the fact that the Plaintiffs do not qualify for any exemption from the overtime requirements of the FLSA, Defendant improperly classified them as exempt employees who were not entitled to overtime pay.

31. Due to their misclassification as exempt, Plaintiffs were not paid for their overtime hours (hours worked in excess of 40 hours per week) at the legally required overtime rate (one and one-half times their regular rate of pay).

32. Throughout the course of their employment, Plaintiffs have worked in excess of 40 hours per week during certain weeks.

33. On information and belief, prior to 2007, the Wackenhut Corporation provided security services at Entergy pursuant to a contractual arrangement with Defendant.

34. During the period of time prior to 2007, Wackenhut classified certain of the Plaintiffs, and other employees with the position of Security Shift Supervisors and/or CAS/SAS Supervisors, as non-exempt employees

who were entitled to overtime pay at the legally-required rate (one and one-half times their regular rate of pay).

35. On information and belief, when the Defendant terminated the services of Wackenhut and began to provide security services with its own employees, Defendant reclassified the Security Shift Supervisors and/or CAS/SAS Supervisors as exempt employees, though their duties and responsibilities remained non-exempt.

36. On information and belief, Defendant was aware of the requirements of the FLSA and Michigan's Wage and Benefit law and their application to the Plaintiffs but willfully ignored them.

## COUNT I

### VIOLATION OF THE FAIR LABOR STANDARDS ACT

38. Plaintiffs repeat and incorporate by reference the allegations contained in each of the above paragraphs.

39. The conduct of the Defendant described above violated the FLSA, as a result of which the Plaintiff are entitled to damages, including but not limited to payment for overtime (i.e. hours in excess of 40 hours per week) at the rate of one and one-half time their regular rate of pay.

40. On information and belief, Defendant's violation of the FLSA was willful, within the meaning of 29 U.S.C. §255(a).

41. Plaintiffs are also entitled to liquidated damages equal to the unpaid overtime compensation described in the previous paragraphs, and award of attorneys' fees incurred in connection with this action.

WHEREFORE, Plaintiffs respectfully request that the Court grant the following relief:

1. That, after trial, the Court award damages in an amount to be determined, including compensatory damages, liquidated damages pursuant to the FLSA, and attorneys' fees and costs.

2. Leave to add additional plaintiffs by the filing of written consent forms, or any other method approved by the Court; and

3. Such further relief as justice requires.

PINSKY, SMITH, FAYETTE & KENNEDY, LLP  
Attorneys for Plaintiffs

Dated: December 22, 2014 By /s/ Katherine Smith Kennedy  
Katherine Smith Kennedy (P54881)  
[KathySmith.Kennedy@gmail.com](mailto:KathySmith.Kennedy@gmail.com)  
Business Address and Telephone Number:  
146 Monroe Center St NW - Suite 805  
Grand Rapids, MI 49503  
(616) 451-8496

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues triable as of right to a jury.

PINSKY, SMITH, FAYETTE & KENNEDY, LLP  
Attorneys for Plaintiffs

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