

IN THE UNITED STATES DISTRICT COURT  
 FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
 WESTERN DIVISION  
 CA No.: 5:23-cv-00683-FL

LEO J. EDWARDS, on behalf of himself and )  
 all others similarly situated, )  
 )  
     *Plaintiff,* )  
 )  
           v. )  
 )  
 CITY OF RALEIGH, )  
 )  
     *Defendant.* )  
 )  
 \_\_\_\_\_ )

**PLAINTIFF’S FIRST AMENDED  
 COLLECTIVE COMPLAINT**

COMES NOW, Leo J. Edwards (“Plaintiff”), on behalf of himself and all others similarly situated, (collectively “Named and Putative Plaintiffs”), by and through undersigned counsel, hereby sets forth this collective action against Defendant City of Raleigh (“Defendant” or “The City”) and alleges as follows:

**PRELIMINARY STATEMENT**

1. This action is brought individually and as a collective action for unpaid overtime compensation, liquidated damages, and all related penalties and damages under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* Defendant had a systemic company-wide policy, pattern, or practice of failing to pay employees for all hours worked, including, but not limited to, pre- and post-shift compensable work activities, unpaid overtime compensation, liquidated damages, and related penalties and damages.

2. Plaintiffs consist of current and former police officers working for Defendant’s Raleigh Police Department (“RPD”). In particular, throughout the relevant period, Defendant adopted a fourteen (14) day work period pursuant to 207(k) of the Fair Labor Standards Act (“FLSA”).

3. Essentially, despite establishing a fourteen (14) day work period, requiring Defendant to compensate Plaintiffs time and one-half for any hours worked over eighty-five and one-half (85.5) in that fourteen (14) day work period, Defendant only calculated overtime hours every twenty-eight (28) days, resulting in a significant undercutting of Plaintiffs' overtime wages.

4. As such, Defendant maintained a policy of not properly compensating employees at the appropriate overtime premium rates for all hours worked in excess of eighty-five and one-half (85.5) in that fourteen (14) day work period, (1) including failing to compensate Plaintiffs for mandatory post-shift work, training sessions, and court appearances that were tracked via Plaintiffs' time sheets, in addition to (2) time worked by Plaintiffs prior to the start of their shifts, which Defendant did not allow Plaintiffs to record as hours worked.

5. Additionally, Plaintiffs did not receive the appropriate premium overtime rate(s) because Defendant did not incorporate all bonus earnings, in determining the appropriate regular rate for overtime compensation when Plaintiffs worked in excess of eighty-five and a half (85.5) hours per fourteen (14) day period, in violation of the FLSA, as applicable.

6. Defendant's pay practices and policies were in direct violation of the FLSA. Accordingly, Named and Putative Plaintiffs seek unpaid overtime compensation, in addition to, liquidated damages, attorneys' fees and costs, and other damages permitted by applicable law.

7. Plaintiff brings this action for violation of the FLSA as a collective action, pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of the following class:

All individuals who were, are, or will be employed at Defendant Raleigh police stations who (1) worked in the position of Police Officer, or other similarly situated non-exempt positions; (2) who were subjected to Defendant's policy of being required to perform work off the clock, such as before the start of their shift; (3) were subjected to Defendant's "Comp Time" policy and were not compensated for all hours worked up to and in excess of eighty-five and a half (85.5) hours per fourteen (14) days, and/or who were paid additional pay including but not limited

to bonuses and worked overtime during any pay period for which additional pay, including, but not limited to bonuses was received any time within three years prior to the commencement of this action, through the present.

### **JURISDICTION AND VENUE**

8. This Court has federal question jurisdiction under 28 U.S.C. § 1331 for the claims brought under the FLSA, 29 U.S.C. § 201, *et seq.*

9. The United States District Court for the Eastern District of North Carolina has personal jurisdiction over Defendant as it is a local government entity that conducts business in Wake County, North Carolina, which is located within this District.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), inasmuch as Defendant is a local government entity that conducts business within the Eastern District of North Carolina, and the substantial part of the events or omissions giving rise to these claims occurred in this District.

### **PARTIES**

11. Plaintiff Edwards is an adult resident of the State of North Carolina, residing in Sanford, North Carolina. At all times relevant, Plaintiff Edwards was employed by Defendant within the meaning of the FLSA, 29 U.S.C. § 203(e)(1)(C).

12. Plaintiff Edwards worked for Defendant's RPD as a non-exempt hourly paid police academy cadet from approximately January 13, 2020, through September 25, 2020. Upon his successful completion of the Raleigh Police Academy in September 2020, Plaintiff Edwards became a police officer, a position he maintained through his date of termination, December 16, 2022.

13. Defendant is a local governmental entity with a principal location of 222 W. Hargett St., Raleigh, NC 27601.

14. Defendant is the primary law enforcement agency in the City of Raleigh, North Carolina, and is comprised of police officers and various administrative personnel. Upon information and belief, it employs approximately four thousand (4,000) full-time employees, with approximately eight hundred (800) employees in the Raleigh Police Department (“RPD”).

15. Upon information and belief, during the time period relevant to this action, Defendant was an employer, joint employers, or members of an integrated, common enterprise, that employed Plaintiff, pursuant to the FLSA, in that Defendant, or its agents, held or implemented the power, *inter alia*, to control the work performance of Plaintiff and dictate the compensation of Plaintiff, and Defendant received the benefit of Plaintiff’s labor.

16. Plaintiff brings this action on his own behalf and, pursuant to 29 U.S.C. § 216(b), as representative of a proposed collective action of similarly situated employees.

### **COVERAGE**

17. At all times material to this action, Defendant has acted, directly or indirectly, in the interest of an employer with respect to Named and putative Plaintiffs.

18. At all times material to this action, Defendant was an employer within the defined scope of the FLSA, 29 U.S.C. § 203(d).

19. At all times material to this action, Named and putative Plaintiffs were individual employees within the scope of the FLSA, 29 U.S.C. §§ 206 and 207.

20. At all times material to this action, Defendant was a public agency, as defined by the FLSA, 29 U.S.C. § 203(x), and has been an enterprise engaged in commerce or the production of goods for commerce as defined by the FLSA, 29 U.S.C. §§ 203(r), 203(s) since Defendant acts as a public agency and such activities “shall be deemed to be activities performed for a business purpose” under § 203(r)(2)(C).

### **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

21. Defendant is responsible for providing policing and law enforcement services throughout Raleigh, North Carolina.

22. Defendant employs police officers, who are empowered by State or local ordinance to enforce laws designed to maintain peace and order, protect life and property, and prevent and detect crimes; who have the power to arrest; and who have undergone training in law enforcement.

23. Throughout his employment with Defendant, since January 2020, Plaintiff Edwards began work for Defendant as a cadet in Defendant's RPD Police Academy ("Academy"). After successful completion of the Academy, Edwards became a Police Officer at its Southwest District Station through the date of his termination, December 16, 2022.

### **WAGE RELATED FACTUAL ALLEGATIONS**

24. Upon information and belief, Defendant's Raleigh Police Department employs approximately 800 police officers in its six (6) district stations.

25. Defendant compensates police officers on an hourly basis. Defendant classifies these employees as hourly non-exempt under the FLSA.

26. During the relevant time period, to satisfactorily perform their duties required, police officers were required to perform work-related duties beyond their scheduled shift times, including before their shift start time, after their shift end time, and mandatory attendance in court and training sessions on unscheduled days off.

27. Throughout his employment with Defendant, since January 2020, Plaintiff Edwards began work for Defendant as a cadet in Defendant's RPD Police Academy ("Academy"). After successful completion of the Academy, Edwards became a Police Officer at its Southwest District Station through the date of his termination, December 16, 2022.

28. Throughout his employment with Defendant, Plaintiff Edwards received positive

remarks on performance evaluations and advanced to the position of First Class Officer.

**Plaintiff's Pay Rate:**

29. As a cadet, Plaintiff Edwards's pay rate was approximately \$18.80. Plaintiff's pay rate stayed the same throughout his time training as a cadet.

30. Once Plaintiff Edwards completed training as a cadet, Plaintiff Edwards became a police officer in approximately September 2020. As a police officer, Plaintiff Edwards's rate was increased to approximately \$19.37 for a ninety (90) day time period.

31. After such ninety (90) day time period was completed, Plaintiff Edwards' pay was increased to approximately \$19.76 in January 2021.

32. Around September 2021, Plaintiff Edwards' pay rate increased again, to approximately \$20.55.

33. In March 2022, Plaintiff Edwards's pay was increased to \$21.57 approximately.

34. Lastly, Plaintiff Edwards' pay was increased to approximately \$22.00 and remained the same for the remainder of his employment.

**Plaintiff's Duties:**

35. Plaintiff Edwards' duties include, but are not limited to, (1) patrolling the community in an effort to be proactive in response to crime; (2) promptly responding to incidents; (3) carrying out arrests; (4) effectively communicating with the public in his capacity as an officer; (4) navigating Defendant computer systems and software programs; (5) providing community resources to local citizens; (6) investigating vehicular accidents; (7) crime scene management; (8) conducting vehicular stops; (9) domestic violence response; (10) investigating crimes; (11) drafting reports; (12) assisting with the prosecution of crimes by testifying as a witness in court; and (13) maintaining community safety.

**Plaintiff's Work Schedule:**

36. Plaintiffs are typically scheduled to work approximately eighty-four (84) hours every fourteen (14) days (“Pay Period”).

37. Specifically, Defendant requires Plaintiffs to work rotating schedules of five (5) days on and two (2) days off, two (2) days on, and five (5) days off. For example, for two (2) weeks per month, Defendant scheduled Plaintiffs to work Monday, Tuesday, Friday, Saturday, and Sunday one week, and then Wednesday and Thursday the following week. During the second two-week pay period, the days and hours scheduled would be the inverse.

38. Plaintiffs were scheduled to work twelve (12) hour shifts, beginning either at 7 a.m. or 7 p.m. Plaintiffs rotated between working mornings and night shifts every month.

39. In addition to Plaintiff’s schedule of 84 hours per fourteen (14) days, Defendant categorizes Plaintiff’s hours worked beyond Plaintiff’s schedule between 168 and 171 every twenty-eight (28) days as “unscheduled” hours worked.

40. Defendant compensates Plaintiffs every fourteen (14) days and requires Plaintiffs to turn in timesheets of their hours worked every fourteen (14) days.

**Pre-Shift Activities:**

41. During the relevant time period, police officers were able to track some of their time worked by either logging into a system on their patrol cars or by recording their hours in an online system.

42. However, Defendant did not allow Plaintiffs to record time worked prior to the start of their shift, despite Defendant requiring Plaintiffs to arrive prior to the start of their scheduled shift to complete work activities.

43. Specifically, Plaintiffs were required to prepare and inspect the officers’ patrol cars, prepare service equipment, log in to Defendant’s various systems to ensure a successful patrol,

and ensure body and dash cameras were properly working. Defendant would not allow Plaintiffs to report any of this time. If Plaintiffs attempted to record such time, Plaintiffs would get into trouble with Defendant.

44. On average, Plaintiffs were required to arrive between approximately ten (10) to twenty (20) minutes prior to the start of their shift to complete such activities.

45. Plaintiff Edwards' twelve (12) hour shift was scheduled to begin at approximately 7:00 am. However, he typically arrived ten (10) to twenty (20) minutes prior to the start of his shift so he could prepare his service equipment and prepare and inspect his patrol car. Plaintiff Edwards was required to complete these activities as part of his work duties but was not credited for working this time because it was not recorded on Defendant's system, as Plaintiffs were reprimanded for recording such time. Thus, considering Plaintiff Edwards' up to twenty (20) unpaid minutes each shift for compensable activities, Plaintiff Edwards is owed approximately, \$67.80 per fourteen (14) day pay period, based on Edwards' starting hourly rate as a police officer of approximately \$19.37, and applicable overtime premium rate of approximately \$29.06.

**Post-Shift Activities:**

46. At the end of a twelve (12) hour shift, police officers frequently stayed past the end of their scheduled shift in order to finish a call, turn in equipment, finish reports, book evidence, take charges out on a suspect, have warrants signed by a Wake County Magistrate via video link or in person at the Wake County Detention Center, and transport suspects to jail.

47. These required post-shift duties could take anywhere from ten (10) minutes to over one and a half (1 ½) hours, for an average of approximately forty-five (45) minutes at the end of each shift, approximately 2.7 hours per week, or approximately 5.83 hours per pay period.

48. Although this time worked past the end of a scheduled shift was recorded on



Defendant's system, Plaintiffs have no way of verifying Plaintiffs were paid for such hours through compensatory time at the appropriate overtime premium rate.

49. Rather, such post-shift work was not counted as overtime, but instead, was allegedly banked as "comp time."

**Plaintiff's Pay Period:**

50. Despite Named Plaintiff being subjected to a fourteen (14) day work cycle, and compensated every fourteen (14) days, Defendant did not pay Plaintiff's overtime appropriately after eighty-five and a half (85.5) hour per fourteen (14) day period.

51. Moreover, when a police officer's "comp time bank" comes close to seventy (70) hours, the police officer is required, by Defendant, to take time off, generally, the next shift, to avoid triggering Defendant's automatic overtime payout. Thus, instead of taking "comp time" earned at their own discretion, police officers are forced to utilize it at Defendant's request when it nears seventy (70) hours.

**Court Appearances:**

52. As part of their mandated work duties, police officers often appear in court to testify in matters they investigated.

53. These required court appearances often take place outside of their scheduled shifts.

54. When police officers testify in Wake County court proceedings, they sign an attendance sheet at the Wake County Courthouse. Once police officers report back to the station, Plaintiffs entered such time in Defendant's Oracle timekeeping system, "Peoplesoft."

55. While these hours were recorded, they were not properly compensated as overtime, but again, banked as "comp time."

56. Specifically, Plaintiff Edwards, for example, was required to attend court for 8.25

hours during the Pay Period from October 22, 2021, through November 5, 2021, in addition to his regularly scheduled eighty-four (84) hours of work for the fourteen (14) day pay period. His pay stubs reflect that these 8.25 hours were paid out at a rate of \$20.54, which was equal to his regular hourly rate at the time, instead of the overtime premium rate, which would have been \$30.81 per hour. Thus, in this two-week pay period alone, Plaintiff Edwards is owed approximately \$84.73 in unpaid overtime wages.

57. Additionally, Plaintiff Edwards spent twenty (20) hours on a federal case during the pay period from March 26, 2022, through April 8, 2022, in addition to his regularly scheduled hours. When referencing his pay stubs for the same period, there is no account of the additional twenty (20) hours worked in federal court; rather, records reflect that he only worked 84 hours. Thus, for this pay period alone, Plaintiff Edwards is owed approximately \$647.10 when accounting for his wage of \$21.57 at the time.

**Mandatory Training Sessions:**

58. As part of required work duties, police officers were required to attend in-service training sessions through Defendant's Raleigh Police Department.

59. These mandatory trainings were scheduled on off-duty days. Upon arrival at the training site, police officers signed in on a separate attendance sheet then manually entered this time into Defendant's payroll system. However, Defendant failed to properly compensate these additional hours worked as overtime.

60. By way of example, Plaintiff Edwards attended a mandatory four (4) hour In-Service Training on March 3, 2022, in addition to his five (5) regularly scheduled twelve (12) hour shifts that week, and his two (2) regularly scheduled twelve (12) hour shifts the week after, for approximately eighty-eight (88) hours during this two-week pay period. However, Plaintiff

Edwards' corresponding pay stub only reflected a total of eighty-four (84) hours. Thus, for this pay period alone, Plaintiff Edwards is owed approximately \$129.42 in unpaid overtime wages, considering his wage of \$21.57 per hour at the time.

**Non-Discretionary Bonuses:**

61. In addition, police officers received additional pay or non-discretionary bonuses during their time working for Defendant, such as for receiving vaccinations.

62. However, Defendant failed to take into account such nondiscretionary bonus when calculating police officers' regular rate of pay, as required by the FLSA. 29 C.F.R. § 778.109.

63. For example, Named Plaintiff received a bonus for receiving a vaccine in the workweek ending on approximately October 8, 2021. Despite receiving such a bonus, according to Defendant's records, Defendant did not appropriately augment Named Plaintiff's regular rate of pay. Specifically, Plaintiff Edwards received a bonus of \$250.00. When including such bonus to augment Plaintiff's regular rate of pay, Plaintiff Edwards's regular rate of pay should have been increased from approximately \$20.54 to approximately \$23.52. However, Defendant failed to augment Plaintiff Edwards' pay and continued paying him his regular hourly rate of approximately \$20.54, despite such bonuses.

**FLSA COLLECTIVE ALLEGATIONS**

64. Named Plaintiff brings the First Count of the instant Complaint as a collective action pursuant to 29 U.S.C. § 216(b), on behalf of himself and all similarly situated employees.

65. Members of the FLSA class are similarly situated.

66. Members of the FLSA class have substantially similar job requirements and pay provisions, and are subject to common practices, policies, or plans that fail to compensate them for all work performed and fail to compensate them at the appropriate overtime rate for all hours

worked in excess of eighty-five and a half (85.5) hours per fourteen (14) day period.

67. There are numerous (in excess of 200) similarly situated current and former individuals that fall within the scope of the aforementioned FLSA class.

68. These similarly situated employees are known to Defendant, are readily identifiable, and can be located through Defendant's records.

69. Members of the proposed FLSA class, therefore, should be permitted to pursue their claims collectively, pursuant to 29 U.S.C. § 216(b).

70. Plaintiff consents in writing to assert his claims for unpaid wages under the FLSA pursuant to 29 U.S.C. § 216(b). Plaintiff's signed consent form is filed with the Court as Exhibit A to this Complaint. As this case proceeds, it is likely that other individuals will file consent forms and join as opt-in plaintiffs.

71. Pursuit of this action collectively will provide the most efficient mechanism for adjudicating the claims of Plaintiffs.

72. As this case proceeds, it is likely other individuals will file consent forms and join as opt-in plaintiffs to pursue their claims in this matter.

73. Named Plaintiff requests that he be permitted to serve as a representative of those who consent to participate in this action and that this action be conditionally certified as a collective action pursuant to 29 U.S.C. § 216(b).

### **COUNT ONE**

#### **Violation of the Fair Labor Standards Act**

#### **29 U.S.C. § 207**

#### **Brought by Plaintiffs on Behalf of Themselves and All Similarly Situated Employees**

74. Plaintiff Edwards incorporates by reference all preceding paragraphs as if the same were set forth again fully at this point.

75. At all relevant times, Defendant has been, and continues to be, an "employer"

engaged in interstate “commerce” and/or in the production of “goods” for “commerce,” within the meaning of the FLSA, 29 U.S.C. § 203.

76. The FLSA defines “employee” as “any individual employed by an employer,” 29 U.S.C. § 203(e)(1), and “employer” as “any person acting directly or indirectly in the interest of an employer in relation to an employee,” 29 U.S.C. § 203(d). The FLSA defines “employ” broadly, to cover anyone who is “suffer[ed] or permit[ed] to work.” 29 U.S.C. § 203(g).

77. At all relevant times, Defendant has employed and continues to employ, “employee[s],” including Named Plaintiff, and each of the members of the prospective FLSA Class, that have been, and continue to be, engaged in interstate “commerce” within the meaning of the FLSA, 29 U.S.C. § 203.

78. The FLSA, generally requires an employer to pay overtime compensation at a rate of one and one-half times regular rate of pay to an employee after the employee has worked over 40 hours in a one week. *See* 29 U.S.C. § 207(a)(1). The statute provides a partial exemption, however, for municipalities and other entities that employ police officers. *See* 29 U.S.C. § 207(k); *see also* C.F.R. 553.201(a). Under § 207(k), a municipality can take advantage of that exemption by adopting a work period between seven (7) and twenty-eight (28) days. If the municipality adopts a fourteen (14) day period, it need not pay overtime until employees have worked over eighty-five and a half (85.5) hours in a fourteen (14) day period.

79. In other words, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 171 hours to twenty-eight (28) days.

80. As demonstrated through its pay practices, Defendant adopted a fourteen (14) day work period, requiring it to pay overtime in excess of eighty-five and a half (85.5) hours per

fourteen (14) day period.

81. Employers must also compensate employees pursuant to the FLSA for all gap time in weeks where employees work overtime, pursuant to 29 C.F.R. § 778.315 and 29 C.F.R. § 778.317.

82. As such, in overtime weeks, Defendant was required to compensate Plaintiffs for hours up to eighty-five and a half (85.5) hours per fourteen (14) day period.

83. Defendant's failure to pay Plaintiffs for all hours worked, and at the overtime rate for hours worked in excess of eighty-five and a half (85.5) per fourteen (14) day period, even though, upon information and belief, Defendant knew of its obligations under the law, entitles Plaintiffs to liquidated damages in an amount equal to the amount of unpaid wages under 29 U.S.C. § 216(b), since Defendant cannot show it acted in good faith, and a three (3) year, rather than two (2) year statute of limitations, since Defendant's acts constitute willful violations of the FLSA, within the meaning of 29 U.S.C. § 255(a).

84. As a result of Defendant's unlawful acts, Plaintiffs have been deprived of compensation for all required hours worked, and appropriate compensation for all overtime hours worked, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, and attorneys' fees and costs, pursuant to 29 U.S.C. § 216(b).

85. Plaintiffs and putative Plaintiffs each worked more than eighty-five and a half (85.5) hours in one or more fourteen (14) day workweeks within the applicable statutory period.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of himself and all those similarly situated, prays that this Honorable Court:

1. Issue an Order certifying this action as a collective action under the FLSA, and

designating Plaintiff Edwards as a representative of all those similarly situated under the FLSA collective action;

2. Award Plaintiff Edwards and all those similarly situated actual damages for all unpaid wages found due to Plaintiff and all those similarly situated, and liquidated damages equal in amount, as provided by the FLSA, 29 U.S.C. § 216(b);

3. Award Plaintiff Edwards and all those similarly situated post-judgment interest at the statutory rate, pursuant to the FLSA, 29 U.S.C. § 216(b) and consistent with 28 U.S.C. § 1961;

4. Award Plaintiff Edwards and all those similarly situated attorneys' fees, costs, and disbursements as provided by the FLSA, 29 U.S.C. § 216(b); and

5. Award Plaintiff Edwards and all those similarly situated further legal equitable relief as this Court deems necessary, just, and proper.

### **JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted, March 27, 2024.

*/s/ Gilda Adriana Hernandez*

Gilda A. Hernandez (NCSB No. 36812)  
Hannah B. Simmons (NCSB No. 59579)  
Matthew M. Marlowe (NCSB No. 60035)

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 27, 2024, I electronically filed the foregoing true and accurate copy of **PLAINTIFF'S FIRST AMENDED COLLECTIVE COMPLAINT** with the Court using the CM/ECF system, and I hereby certify that I have thereby electronically served the document on the following:

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