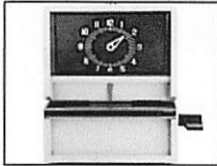


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21 DLR A-6

Federal Employees

Over 1,000 Federal Workers Join Lawsuit Alleging FLSA Violations During Shutdown



By Louis C. LaBrecque

Jan. 31 — More than 1,000 federal employees have joined a lawsuit alleging that the U.S. government violated the Fair Labor Standards Act by requiring about 1.3 million federal workers deemed "essential" during the partial government shutdown in October 2013 to work without the certainty of pay, according to an amended complaint filed Jan. 27 (*Martin v. United States*, Fed. Cl., No. 1:13-cv-00834, amended complaint filed 1/27/14).

The original complaint, filed in the U.S. Court of Federal Claims by five employees in late October, claimed that federal employees deemed "essential" and required to work during the partial federal government shutdown that occurred Oct. 1-16 are owed damages under the FLSA (214 DLR A-8, 11/4/13).

The original plaintiffs, who were all employees of the Justice Department's Federal Bureau of Prisons, alleged four counts: (1) failure to pay timely wages to essential employees; (2) failure to pay overtime compensation to FLSA nonexempt essential employees on the scheduled payday; (3) failure to pay overtime compensation to FLSA exempt essential employees on the scheduled payday, when not paying exempt employees on a salary basis; and (4) forcing essential employees to work without knowing if and when they would be paid, without being paid on the scheduled payday and without being paid minimum wage or overtime, all in violation of the Back Pay Act, which allows federal employees to be reimbursed for wrongful deprivation of pay under certain circumstances.

The plaintiffs are seeking liquidated damages under the FLSA equal to an amount they allegedly should have been timely paid to satisfy the FLSA's minimum wage and overtime requirements, along with prejudgment interest on the amounts owed and reasonable attorneys' fees.

'Opt-In Plaintiffs' Added to Complaint

The amended complaint adds 1,023 "opt-in plaintiffs" to the five named plaintiffs in the original complaint.

In addition, the amended complaint asks the Court of Federal Claims to require the government to send notice of the lawsuit to other federal employees who were deemed "essential" during the shutdown and required to work.

"Defendant knows the work email addresses of all Members who still work for the Defendant. Defendant can communicate with those Members at those work email addresses more speedily and at less expense than Plaintiffs could communicate with them by any means," the amended complaint says.

"Defendant should be required to give electronic notice of this collective action using Court-approved language at those work email addresses to all Members who still work for the Defendant because of the large number of Members and the ease with which Defendant may communicate with the Members electronically at those email addresses. Defendant also should be required to provide to Plaintiffs contact information for all Members who no longer work for the Defendant," the complaint adds.

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For More Information

Text of the amended complaint is available at <http://op.bna.com/gr.nsf/r?Open=llbe-9fvrqm>.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

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