

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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ISAAC WRIGHT, on behalf of	:	
himself and others similarly	:	
situated,	:	4:16-cv-00580-CCC
	:	
Plaintiff,	:	
v.	:	
	:	
CENERGY INTERNATIONAL	:	
SERVICES, LLC and SHELL OIL	:	
COMPANY,	:	
	:	
Defendants.	:	
	:	

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**FIRST AMENDED COMPLAINT – CLASS/COLLECTIVE ACTION**

Isaac Wright (“Plaintiff”) brings this lawsuit against Cenergy International Services, LLC (“Cenergy”) and Shell Oil Company (“Shell”), seeking all available relief under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, and the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, *et seq.* Plaintiff’s FLSA claim is asserted as a collective action under 29 U.S.C. § 216(b), while his PMWA claim is asserted as a class action under Federal Rule of Civil Procedure 23.

**JURISDICTION AND VENUE**

1. Jurisdiction over the FLSA claim is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
  
2. Jurisdiction over the PMWA claim is proper under 28 U.S.C. §

1367.

3. Venue is proper under 28 U.S.C. § 1391.

### **PARTIES**

4. Plaintiff is an individual residing in Coudersport, Pennsylvania (Potter County).

5. Plaintiff is an employee entitled to the overtime pay protections of the FLSA and PMWA.

6. Cenergy is a corporate entity headquartered in Houston, Texas.

7. Shell is a corporate entity headquartered in Houston, Texas.

8. Cenergy and Shell are employers required to comply with the overtime pay mandates of the FLSA and PMWA.

### **FACTS**

9. Cenergy is in the business of providing employee labor services to clients in the oil and gas industry.

10. Shell is one of Cenergy's clients.

11. In August 2015, Cenergy hired Plaintiff to work as Rig Clerk at natural gas well(s) owned and/or operated by Shell within this judicial district.

12. Plaintiff – like other individuals paid by Cenergy and assigned to Shell projects – was required to review and sign “On-Boarding

paperwork” consisting of written work rules promulgated by both Cenergy and Shell. These written work rules included, *inter alia*, Shell’s Code of Conduct, Shell’s Lifesaving Rules, and Shell’s General Business Principles”

13. Plaintiff – like other individuals paid by Cenergy and assigned to Shell projects – was required to submit to a Shell-mandated drug test. On August 14, 2015, Cenergy informed Plaintiff that it “received approval from Shell to have you test once you arrive on location.”

14. Plaintiff – like other individuals paid by Cenergy and assigned to Shell projects – was required to participate in Shell’s orientation program. On August 14, 2015, Cenergy instructed Plaintiff: “Please also go online at the link below to complete your Shell required registration/orientation (2 sections).”

15. The day-to-day work of Plaintiff – like other individuals paid by Cenergy and assigned to Shell projects – was overseen by Shell managers or representatives who were authorized to discipline Plaintiff.

16. Plaintiff – like other individuals paid by Cenergy and assigned to Shell projects – was required to comply with rules, procedures, and reporting requirements promulgated by Shell. Failure to comply with these rules, procedures, and reporting requirements was grounds for discipline and could result in termination.

17. Shell, upon information and belief, was authorized to prohibit the hiring of and to mandate the firing of individuals paid by Cenergy and assigned to Shell projects.

18. Cenergy and Shell have acted as joint employers under the FLSA and PMWA with respect to Plaintiff and other individuals paid by Cenergy and assigned to Shell projects.

19. Cenergy and Shell will be referred to collectively as “Cenergy-Shell.”

20. Individuals paid by Cenergy and assigned to Shell projects will be referred to collectively as “Cenergy-Shell Employees.”

21. Plaintiff was a Cenergy-Shell Employee from August 2015 until approximately January 2016.

22. Cenergy-Shell did not pay Plaintiff on a salary basis.

23. Plaintiff, like hundreds of other Cenergy-Shell Employees, regularly worked over 40 hours per week. For example, Plaintiff worked at least 132 hours during the two-week payroll period ending October 16, 2015 and worked at least 144 hours during the two-week payroll period ending November 27, 2015.

24. Cenergy-Shell did not pay Plaintiff any overtime premium compensation for his overtime hours. Similarly, hundreds of other

Cenergy-Shell Employees were not paid any overtime premium compensation for their overtime hours.

25. By failing to pay the overtime premium, Cenergy-Shell has acted willfully and with reckless disregard of clearly applicable FLSA requirements.

**CLASS/COLLECTIVE ACTION ALLEGATIONS**

26. Plaintiff brings his FLSA claim pursuant to 29 U.S.C. § 216(b) on behalf of all individuals who, during any time since April 5, 2013, were paid by Cenergy and assigned to Shell projects in the United States and did not receive overtime premium compensation for hours worked over 40 per week.

27. Plaintiff's FLSA claim should proceed as a collective action because Plaintiff and other members of the above collective, having worked pursuant to the common policies described herein, are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law.

28. Plaintiff brings his PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all individuals who, during any time since April 5, 2013, were paid by Cenergy and assigned to Shell projects in Pennsylvania and did not receive overtime premium

compensation for hours worked over 40 per week.

29. Class action treatment of Plaintiff's PMWA claim is appropriate because, as alleged below, all of Federal Rule of Civil Procedure 23's class action requisites are satisfied.

30. The class includes hundreds of individuals, all of whom are readily ascertainable based on standard payroll records and are so numerous that joinder of all class members is impracticable.

31. Plaintiff is a class member, his claims are typical of the claims of other class members, and he has no interests that are antagonistic to or in conflict with the interests of other class members.

32. Plaintiff will fairly and adequately represent the class members and their interests, and he has retained competent and experienced counsel who will effectively represent the class members' interests.

33. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Cenergy-Shell's companywide pay policies, as summarized herein. The legality of these policies will be determined through the resolution of generally applicable legal principles to common facts.

34. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate

over questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

**COUNT I**  
**(Alleging FLSA Violations)**

35. All previous paragraphs are incorporated as though fully set forth herein.

36. The FLSA requires that employees receive overtime premium compensation “not less than one and one-half times” their regular pay rate for hours worked over 40 per week. *See* 29 U.S.C. § 207(a)(1).

37. Cenergy-Shell violated the FLSA by failing to pay Plaintiff and other members of the FLSA collective overtime premium compensation for hours worked over 40 per week, and such violation was undertaken willfully and with reckless disregard of clearly applicable FLSA requirements.

**COUNT II**  
**(Alleging PMWA Violations)**

38. All previous paragraphs are incorporated as though fully set forth herein.

39. The PMWA requires that employees receive overtime premium compensation “not less than one and one-half times” the employee’s

regular pay rate for hours worked over 40 per week. *See* 43 P.S. § 333.104(c).

40. Cenergy-Shell violated the PMWA by failing to pay Plaintiff and other class members overtime premium compensation for hours worked over 40 per week.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of himself and other members of the class and collective, seeks the following relief:

- A. Unpaid overtime wages and prejudgment interest;
- B. Liquidated damages (under FLSA only);
- C. Litigation costs, expenses, and attorneys' fees; and
- D. Such other and further relief as this Court deems just and proper.

Date: June 1, 2016

Respectfully,

/s/ Peter Winebrake

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