



the statute of limitations issue was heard. Plaintiffs then filed a responsive memorandum and reply, arguing that claims for straight time as well equitable claims are subject to Mo. Rev. Stat. § 516.140, a five-year statute of limitations, and Defendants were afforded a second responsive brief on the issue. On September 29, 2015, this Court entered an order amending the class definition as follows:

**All Persons Employed In Positions As Corrections Officer I Or Corrections Officer II By The Department Of Corrections Of The State Of Missouri At Any Time From August 14, 2007 To The Present Date for Claims Relating to Unpaid Straight-Time Compensation and From August 14, 2010 To The Present Date for Unpaid Overtime Compensation.**

The Court further appointed Thomas Hootselle, Daniel Dicus, Powell Meister, and Beverly Ann Stevenson as Class Representatives and Gary Burger as Class Counsel. Two years later, the Plaintiffs filed an unopposed request to remove Mr. Meister and Ms. Stevenson as Class Plaintiffs and Class Representatives. That motion was granted by this Court on September 5, 2017.

## **II. FINDINGS**

The arguments and evidence presented in Defendants' motion are largely repetitive of the arguments already rejected by this Court. Defendants have not challenged the elements of Rule 52.08(a), and the Court finds that those elements continue to be satisfied in this case. In addition, with respect to the elements of Rule 52.08(b), the record reflects that the common issues predominate in this litigation, including whether a contract exists between Plaintiffs and Defendants; whether the contract requires Defendants to comply with the FLSA's overtime requirements; whether the pre-and post-shift activities performed by Plaintiffs are compensable under the FLSA and the contract; whether Defendants' system-wide common policies and procedures are violations of the FLSA; whether Defendants' refusal to compensate

Plaintiffs for pre- and post-shift activities is a breach of its contract with Plaintiffs; whether Defendant DOC has been unjustly enriched at the expense of Plaintiffs and the Class by its misconduct; and whether prospective injunctive relief is appropriate predominate over this litigation. Moreover, these common issues will be decided using common evidence. Plaintiffs and the Class performed virtually identical pre- and post-shift activities across different Department of Corrections facilities and over the time period of the class, and their employment by Defendant Missouri Department of Corrections is governed by the same Labor Agreement and Procedures Manual. For these reasons, the predominance requirement of Rule 52.08(b)(3) is satisfied.

The superiority requirement of Rule 52.08(b) is also satisfied. Decertifying the Class would create a need for thousands of mini-trials deciding identical issues. Including the Missouri Corrections Officers Association ("MOCO") does not change this analysis, as numerous class members are not members of MOCO. Moreover, decertifying the Class after over three years would substantially prejudice its members rights to due process. As a result, a class action is, in accordance with Rule 52.08(b)(3), superior to individuals actions.

Plaintiffs have satisfied their burden of proof under Rule 52.08 by presenting significant common evidence and issues justifying this Court's original orders certifying a class. For this and the foregoing reasons, Defendants' motion for class decertification is DENIED, and the trial of this matter shall proceed on a class-wide bases, commencing on June 18, 2018.

So ORDERED this 4 day of May, 2018.

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Hon. Patricia S. Joyce