

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DEC 13 2006

MICHAEL N. MILBY, CLERK OF COURT

CHERYL WELLS

Plaintiff,

v.

CONOCOPHILLIPS COMPANY

Defendant.

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CIVIL ACTION NO. _____

ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THE COURT:

Comes now the Plaintiff, Cheryl Wells, and files this her original complaint against Defendant ConocoPhillips Company. For cause of action, Plaintiff would respectfully show the Court the following:

NATURE OF THIS ACTION

1. The Plaintiff was employed by Defendant ConocoPhillips Company until November 1, 2006. The Plaintiff alleges that Defendant failed to pay her overtime wages for work in excess of 40 hours a week, in violation of the Fair Labor Standards Act (FLSA), 29 U.S.C. §201 *et seq.* Plaintiff brings this action to recover her unpaid overtime compensation, together with an equal amount of liquidated damages, attorney fees and costs, and other relief available under 29 U.S.C. §216.

JURISDICTION AND VENUE

- 2. Jurisdiction is conferred on this Court by 29 U.S.C. §216.
- 3. Venue is proper in this Court under 28 U.S.C. §1391(b)(2).

CLC # 2050

PARTIES

4. Plaintiff is an individual who resides in North Zulch, Texas and was employed by the Defendant until November 1, 2006. Plaintiff was an "employee" of Defendant as that term is defined in 29 U.S.C. §203(e). Plaintiff has consented to the filing of this action, as indicated by the written consent attached hereto and incorporated by reference herein as Exhibit 1.

5. Defendant ConocoPhillips Company is a foreign corporation incorporated in Delaware; an "employer" as that term is defined in 29 U.S.C. §203; and an "enterprise engaged in commerce or in the production of goods for commerce" as that term is defined in 29 U.S. C. §203(s). Defendant ConocoPhillips Company may be served with process by serving its registered agent for service of process, United States Corporation Company, 701 Brazos St., Ste. 1050, Austin, Texas 78701.

FACTUAL BACKGROUND

6. For purposes of this action, the "relevant period" is defined as that period commencing three years prior to the date this lawsuit was filed, and continuing thereafter.

7. During the relevant period, Plaintiff was employed by Defendant as a non-exempt worker engaged in data input in its Houston, Texas office.

8. Throughout the relevant period, Plaintiff worked in excess of 40 hours per week without receiving overtime pay at one and one half times her regular rate of pay for hours in excess of 40 per week as required by 29 U.S.C. § 207(a).

CAUSE OF ACTION

9. Paragraphs 1-8 are incorporated by reference herein.

10. Defendant violated 29 U.S.C. §207 by failing to pay Plaintiff one and one half times her regular rate for all hours in excess of 40 worked per week during her employment with

Defendant. Plaintiff sues Defendant for her unpaid overtime wages, plus an equal amount as liquidated damages, plus attorney fees and costs.

11. Defendant's failure to pay overtime wages to Plaintiff was willful, thus entitling Plaintiff to avail herself of the three (3) year statute of limitations under 29 U.S.C. §255(a).

PRAYER FOR RELIEF

Wherefore, premises considered, Plaintiff respectfully requests that Defendant be cited to appear and answer herein, and that upon final hearing, the Court grant Plaintiff relief as follows:

A. Declare that Defendant has violated the Fair Labor Standards Act, specifically 29 U.S.C. §207, by failing to pay the Plaintiff overtime at one and one half times her regular hourly rate for all hours in excess of 40 worked during each 7-day workweek period.

B. Order Defendant to pay Plaintiff her unpaid wages for the period commencing three (3) years prior to the date this suit was filed. Unpaid wages sought are in an amount equal to the difference between what the Plaintiff actually received and what the Plaintiff would have received had Defendants properly complied with the overtime provisions of the Fair Labor Standards Act.

C. Order Defendant to pay Plaintiff liquidated damages in an amount equal to her unpaid wages.

D. Order Defendant to pay Plaintiff pre-judgment interest for all backpay amounts awarded.

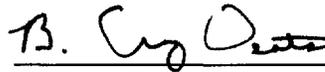
E. Order Defendant to pay Plaintiff reasonable attorney fees and costs pursuant to 29 U.S.C. §216(b).

F. Order Defendant to pay post-judgment interest at the highest lawful rate for all amounts, including attorney fees, awarded against Defendant.

G. Order all further relief, whether legal, equitable or injunctive, to which Plaintiff may be entitled and as may be necessitated to effectuate full relief to the Plaintiff.

Respectfully submitted,

DEATS DURST OWEN & LEVY, P.L.L.C.



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