

**IN THE CIRCUIT COURT
FOR COLE COUNTY, STATE OF MISSOURI
19TH JUDICIAL CIRCUIT**

THOMAS HOOTSELLE, JR., et al., and)	
MISSOURI CORRECTIONS OFFICERS)	
ASSOCIATION,)	
)	
Plaintiffs, Individually and on)	
behalf of all others similarly situated,)	
)	Cause No. 12AC-CC00518
v.)	
)	Div. 4
MISSOURI DEPARTMENT OF)	
CORRECTIONS,)	
)	
Defendant.)	

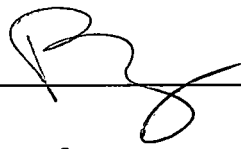
**ORDER GRANTING PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Upon consideration of the Motion for Partial Summary Judgment filed by Plaintiffs' Class and Class Representatives, Thomas Hootselle, Daniel Dicus, and Oliver Huff ("Class Plaintiffs") and Plaintiff Missouri Corrections Officers Association ("MOCOA") (collectively "Plaintiffs"); the Statement of Undisputed Material Facts, Memorandum in Support, and Reply filed in support thereof; Defendant Missouri Department of Corrections' ("MDOC") Response to the Statement of Facts and Memorandum in Opposition; the parties' oral argument; and a careful review of the evidence submitted by the parties in support thereof, the Court hereby enters GRANTS Plaintiffs' motion for partial summary judgment. There are no genuine disputes of material fact regarding: (1) the existence and terms of a contract between the parties set forth in the Labor Agreement and Procedure Manual D2-8.4; (2) whether Class Plaintiffs performed pursuant to that contract; (3) whether Defendant breached the contract by failing to compensate Class Plaintiffs for that work; and (4) whether Class

Plaintiffs were damaged by said breach. *Nodaway Valley Bank v. E.L. Crawford Const., Inc.*, 126 S.W.3d 820, 825 (Mo. App. W.D. 2004). The pre- and post-shift activities performed by Class Plaintiffs are compensable work under the contract requiring compensation for time class members “physically work,” and compliance with the Fair Labor Standards Act, which “... requires [M]DOC to compensate corrections officers who actually work more than forty hours in a single work week at ‘a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required.’” *Missouri Corrections Officers Ass’n v. Missouri Dept. of Corrections*, 409 S.W.3d 499, 500 (Mo. App. W.D. 2013). As such, the only issue that remains for trial is a computation of Class Plaintiffs’ damages.”

It is therefore ORDERED that partial summary judgment be entered in Plaintiffs’ favor on Counts III and VI of the Second Amended Petition (as amended by interlineation), in accordance with Rule 74.04(a) of the Missouri Rules of Civil Procedure. This matter shall proceed to trial by jury to compute damages sustained by Class Plaintiffs for said breach.

So ordered.



Date: 8-10-18