

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Wesley S. Mullinax, Billy Wesley Owen
Addis, William D. Smith, Jr. and John T. Cox,
al individually and on behalf of all other
similarly situated individuals,

Plaintiffs,

vs.

Parker Sewer & Fire Subdistrict,

Defendant.

Case No. 6:12-cv-01405-JMC

ANSWER

NOW COMES the Defendant (“Parker”) answering the Complaint and states as follows:

FOR A FIRST DEFENSE

1. Paragraph 1 is a characterization of the action requiring no response..
2. Paragraph 2 is a characterization of the action requiring no response. .
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted.
8. Paragraph 8 is a characterization of the action requiring no response except that it is denied that Parker violated the law.
9. Paragraph 9 is admitted except that it is denied that Parker violated the law.
10. Paragraph 10 is denied.
11. Paragraph 11 is denied.

12. Paragraph 12 is admitted.

13. Paragraph 13 is admitted except that it is denied that any legal violation occurred.

14. Paragraph 14 is admitted except that it is denied that any legal violation occurred.

15. Paragraph 15 is admitted.

16. Paragraph 16 is admitted.

17. Paragraph 17 is admitted.

18. Paragraph 18 is admitted.

19. Paragraph 19 is admitted.

20. Paragraph 20 is admitted.

21. Paragraph 21 admits only the tours of duty but denies the alleged compensable hours of work.

22. Paragraph 22 is denied.

23. Paragraph 23 is denied.

24. Paragraph 24 is denied.

25. Paragraph 25 is denied.

26. Paragraph 26 is denied.

27. Paragraph 27 is denied.

28. Paragraph 28 is denied.

29. In regard to Paragraph 29, it is admitted Plaintiffs were employees and performed their jobs in a competent manner.

30. Paragraph 30 is denied.

31. In regard to Paragraph 31, the foregoing allegations are realleged and incorporated herein by reference.

32. Paragraph 32 is admitted.

33. In regard to Paragraph 33, it is admitted that the employees were employees of the Defendant for the purposes of the Fair Labor Standards Act, the remaining allegations are denied.

34. Paragraph 34 is denied.

35. Paragraph 35 is denied.

36. Paragraph 36 is denied.

37. Paragraph 37 is denied.

38. Paragraph 38 is denied.

39. Paragraph 39 is denied.

40. In regard to Paragraph 40, it is admitted that Parker has records and alleges that it follows the law. The remaining allegations are denied.

41. Paragraph 41 is denied.

42. In regard to Paragraph 42, the foregoing allegations are realleged and incorporated herein by reference.

43. Paragraph 43 is admitted.

44. In regard to Paragraph 44, it is admitted that the Plaintiffs are employees but denied that a class is appropriate in this case.

45. In regard to Paragraph 45 it is admitted that various policies and procedures were promulgated and distributed but denied that any law was violated.

46. Paragraph 46 is denied.

47. Paragraph 47 is denied.

48. Paragraph 48 is denied.

49. Paragraph 49 is denied.

50. Paragraph 50 is denied.

51. Each and every allegation of the Complaint not hereinbefore or hereinafter admitted, modified or explained is denied.

FOR A SECOND DEFENSE

52. The Second Cause of Action is preempted by federal law.

FOR A THIRD DEFENSE

53. To the extent that the Defendant is found to have violated the law, which is denied, such violation is de minimis.

FOR A FOURTH DEFENSE

54. To the extent the Defendant violated the law, which is denied, such violation which was not willful or intentional but rather the Defendant always acted in good faith and with legal intention.

FOR A FIFTH DEFENSE

55. Plaintiffs' claims are barred by the applicable statute(s) of limitations.

FOR A SIXTH DEFENSE

56. The Plaintiffs' claims are barred because the Plaintiffs failed to exhaust their administrative remedies.

FOR A SEVENTH DEFENSE

57. The Complaint fails to state a claim for which relief may be granted.

FOR AN EIGHTH DEFENSE

58. At all times herein, the Defendant has acted in good faith, with the belief that all acts and omissions were in compliance with the Fair Labor Standards Act (“FLSA”) 29 U.S.C. sections 201, *et seq.*, its regulations, interpretive bulletins, administrative rulings, practices and policies of the United State Department of Labor, Wage and Hour Division.

FOR A NINTH DEFENSE

59. Defendant has paid wages in accordance with its policy and, therefore, there is a good faith dispute over the wages Plaintiffs claim.

FOR A TENTH DEFENSE

60. Trebled, punitive, or other exemplary damages are not available against this Defendant because such damages against public entities violate the public policy.

FOR AN ELEVENTH DEFENSE

61. Plaintiffs’ claim are barred in whole or in part by the doctrines of estoppel, waiver and laches in that Plaintiffs were fully informed of Defendant’s pay system, acquiesced and accepted the pay system, and inexcusably sat on their right until the pay system was changed.

FOR A TWELFTH DEFENSE

62. Plaintiffs agreed to the terms and condition of their employment and, therefore, are barred from pursuing their claims under the South Carolina Wage Payment Act, S.C. Code sections 41-10-10, *et seq.*

FOR A THIRTEENTH DEFENSE

63. Plaintiffs received wage payments for which they were not entitled and for which Defendant is entitled to a setoff against any wages allegedly owed.

FOR A FOURTEENTH DEFENSE

64. Plaintiffs received other premium pay of at least one and one-half times their regular rate which Defendant is entitled to credit against any overtime allegedly owed.

FOR A FIFTEENTH DEFENSE

65. This Court has no jurisdiction because the Plaintiffs failed to serve the Defendant personally as required by law.

WHEREFORE having fully answered the Complaint and having set for various defenses, the Defendant respectfully requests that the Court dismiss the Complaint with prejudice, with costs taxed to the Plaintiffs and for such other relief as the Court deems just and proper.

Respectfully submitted

s/Thomas L. Stephenson

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