

Court approves \$117.5 million settlement for corrections officers' overtime

■ Scott Lauck

Four years after a massive jury verdict in the plaintiffs' favor and 16 months after the Missouri Supreme Court sent them back for another try, a Missouri judge has approved a settlement worth at least \$117.5 million for state corrections officers who sought payment for unpaid on-the-job activities.



Gary Burger

Cole County Circuit Judge Cotton Walker gave final approval on Oct. 11 to the settlement with the Missouri Department of Corrections. It calls for a \$49.5 million settlement fund for the class members and an agreement by the Department of Corrections to pay current and future officers an additional 15 minutes per shift for eight years.

Gary Burger of Burger Law said it was the "biggest case of our career after a decade of litigation" for him and his co-counsel.

"One of the great things about the case was being able to help the hard-working men and women of the Missouri Department of Corrections," he said. "They are the largest police force in the state and guard prisoners every day — including right now."

Named plaintiff Thomas Hootselle Jr., who led a class of approximately 14,000 corrections workers, alleged in the 2012 lawsuit that the correc-

tions department breached its obligations under the Fair Labor Standards Act and its contractual duties under labor agreements to pay officers for preshift and postshift activities, such as logging their arrival or departure to work, reporting to a central observation post to receive assignments, undergoing security screenings, and walking to and from their daily posts.

In 2018, a Cole County judge sustained the officers' motion for partial summary judgment on their breach of contract claims, determining the department was liable for all pre-shift and postshift activities. The case went to trial later that year to determine damages. The resulting \$113.7 million award was the third-largest plaintiffs' win of 2018 as tracked by Missouri Lawyers Media.

In 2021, the Supreme Court affirmed the earlier class certification ruling and generally upheld the plaintiffs' theory of the case. However, the court found that the plaintiffs failed to meet their burden to show that some of the preshift and postshift activities were "indispensable and integral" to their work, so the jury award was vacated.

The case was remanded to Cole County for a new determination of damages and was set to go to trial in June. The parties reached a settlement in sessions mediated by William Ray Price Jr. of Armstrong Teasdale, a former Supreme Court judge.

Burger said the settlement constituted 95 percent of the damages projected by the defendant's expert and exceeded the verdict from the 2018 trial. About \$54 million in additional pay is expected for the corrections workers in the coming years. The settlement also calls for an additional \$14 million in attorneys' fees over that eight-year period.

EMPLOYMENT

BREAKDOWN: \$49.5 million payment, including \$16.5 million in attorneys' fees and \$378,697.67 in costs. \$54 million for additional 15 minutes per shift for eight years, \$14 million in additional attorneys' fees

VENUE: Cole County Circuit Court

CASE NUMBER/DATE: 12AC-CC00518-01/Oct. 11, 2022

JUDGE: Cotton Walker

CAPTION: Thomas Hootselle v. Missouri Department of Corrections

PLAINTIFFS' ATTORNEYS: Gary K. Burger, Burger Law, St. Louis; Michael J. Flannery, Cuneo Gilbert & Laduca, St. Louis; Fernando Bermudez, Bermudez Law STL, St. Louis

DEFENDANT'S ATTORNEYS: Sara Rittman, Missouri Attorney General's Office, Jefferson