

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ANDREW N. PECK, RICHARD E.	:	
PECK II, BRETT J. LISAK, GEORGE	:	
RUA, LISA M. BEAUSOLEIL,	:	
RANDY O. CROWE, HAYLEY MORIN,	:	
THOMAS R. WALKER, JR.,	:	
MACKENZIE R. BEAUSOLEIL, and	:	
RYAN E. PECK,	:	C.A. No. 22-cv
<i>Plaintiffs</i>	:	<u>Jury Trial Demanded</u>
	:	
v.	:	
	:	
PASCOAG FIRE DISTRICT, alias,	:	
<i>Defendant</i>	:	
	:	

COMPLAINT

I. Introduction

1. This is an action brought by Plaintiffs Andrew E. Peck, Richard E. Peck II, Brett J. Lisak, George Rua, Lisa M. Beausoleil, Randy O. Crowe, Hayley Morin, Thomas R. Walker, Jr., Mackenzi R. Beausoleil, and Ryan E. Peck (“Plaintiffs”) against their employer, Pascoag Fire District, alias, seeking compensatory, liquidated, and punitive damages, counsel fees, costs and other equitable relief arising out of violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* and the Rhode Island Payment of Wages Act (“RIPWA”), R.I. Gen. Laws § 28-12-1, *et seq.* and § 28-14-1, *et seq.*

II. Parties

2. Plaintiff Andrew N. Peck is a resident of the Town of Burrillville, County of Providence, and State of Rhode Island.

3. Plaintiff Richard R. Peck II is a resident of Town of Burrillville, County of Providence, and State of Rhode Island.

4. Plaintiff Brett J. Lisak is a resident of the Town of Uxbridge, County of Worcester, and Commonwealth of Massachusetts.

5. Plaintiff George Rua is a resident of Town of Burrillville, County of Providence, and State of Rhode Island.

6. Plaintiff Lisa M. Beausoleil is a resident of Town of Burrillville, County of Providence, and State of Rhode Island.

7. Plaintiff Randy O. Crowe is a resident of Town of Gloucester, County of Providence, and State of Rhode Island.

8. Plaintiff Hayley Morin is a resident of Town of Burrillville, County of Providence, and State of Rhode Island.

9. Plaintiff Thomas R. Walker, Jr. is a resident of Town of Burrillville, County of Providence, and State of Rhode Island.

10. Plaintiff Mackenzie R. Beausoleil is a resident of Town of Burrillville, County of Providence, State of Rhode Island.

11. Plaintiff Ryan E. Peck is a resident of Town of Burrillville, County of Providence, State of Rhode Island.

12. Defendant Pascoag Fire District, alias, is a quasi-municipal corporation, duly organized and incorporated pursuant to a charter granted by the General Assembly of the State of Rhode Island, with its principal place of business located at 141 Howard Avenue, Burrillville, Rhode Island.

III. Jurisdiction

13. The United States District Court for the District of Rhode Island has federal subject matter jurisdiction over this matter pursuant to the provisions of 28 U.S.C. § 1331 because Plaintiff asserts claims arising under federal law; specifically, the FLSA.

14. Supplemental jurisdiction over the state law claim set forth herein is predicated on 28 U.S.C. § 1367 as they arise out of the same case or controversy.

IV. Venue

15. Pursuant to the requirements set forth in 28 U.S.C. § 1391, venue is proper in this Court insofar as Defendant is a Rhode Island entity, operating in the State of Rhode Island and therefore is deemed to reside in the District of Rhode Island.

16. In addition, a substantial part of the acts and/or omissions giving rise to the claims asserted herein occurred in the District of Rhode Island.

V. Material Facts

FLSA Liability Allegations

17. At all times relevant to this action, Plaintiffs were “employees” within the meaning of 29 U.S.C. § 203(e)(1) of the FLSA as well as within the meaning of R.I. Gen. Laws §§ 28-12-2(5) and 28-14-1(2) of the RIPWA employed by the Defendant.

18. At all times relevant to this action, Defendant was an “employer” within the meaning of 29 U.S.C. § 203(d) of the FLSA as well as within the meaning of R.I. Gen. Laws §§ 28-12-2(7) and 28-14-1(3) of the RIPWA employing the Plaintiffs.

19. At all relevant times, Plaintiffs were “engaged in commerce or in the production of goods for commerce” within the meaning of, *inter alia*, 29 U.S.C. §§ 203 (b), (i)-(j), 206(a), and 207(a), as an employee employed by and performing work for Defendant.

20. At all relevant times, Defendant was engaged in related activities performed through unified operation and/or common control for a common business purpose and are, and at all times hereinafter mentioned, were an enterprise within the meaning of 29 U.S.C. § 203(r).

21. At all relevant times, Defendant was an “enterprise engaged in commerce or in the production of goods for commerce” within the meaning of, *inter alia*, 29 U.S.C. §§ 203(s).

Work Performed for Defendant and Defendant’s Illegal Pay Scheme

22. Plaintiffs all work for Defendant as per-diem Firefighters/Emergency Medical Technicians (“Firefighter/EMTs”).

23. Plaintiffs respond to both fire and EMT calls and provide firefighting and EMT services including, for example, administering first aid, transporting people with medical issues to medical facilities, and firefighting.

24. As per-diem Firefighter/EMTs, Plaintiffs are compensated for work performed at an hourly rate of pay.

25. However, Plaintiffs also work as Firefighter/EMTs for Defendant, performing the same exact job duties/services as per-diem Firefighter/EMTs, on a volunteer basis for which they are not paid and only occasionally receive a small, nominal stipend depending on the specific work tasks performed.

26. With respect to all Plaintiffs, the work done as paid workers and as volunteers is identical in all respects other than pay, or lack thereof.

27. As such Defendant pays the Plaintiffs an hourly rate for some hours, nominal pay below minimum wage for some hours, and no pay at all for other hours, all while Plaintiffs were doing the same work, tasks, and jobs

28. This payment scheme violates both the RIPWA and the FLSA.

29. The FLSA makes it clear that individuals may volunteer services to the public agency by which they are employed *only* where the individual 1) performs hours of service for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered other than the payment of expenses, reasonable benefits or a *nominal* fee, 2) offers the services freely and without pressure or coercion, direct or implied; and, 3) *is not otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer.* 29 U.S.C. §203(e)(4)(A); 29 C.F.R. §§553.101 and 553.103 (“[A] firefighter cannot volunteer as a firefighter for the same public agency.”)

30. Insofar as Plaintiffs are employed by the same public agency to perform the same type of services as those for which they also “volunteer,” the pay scheme employed by the

Defendant whereby it receives “volunteer” services from Plaintiffs without compensation or nominal compensation is expressly forbidden under applicable law.

31. Consequently, Plaintiffs are owed compensation at their regular hourly rate for all hours worked wherein Defendant classified them as “volunteers” and did not provide their regular hourly rate for those hours worked.

32. From 2020 to 2022, Defendant had four different Fire Chiefs, at least two (2) of whom, Chief Carter and Chief St. Pierre, expressed concerns to Defendant that its pay scheme described herein was unlawful.

33. Chief St. Pierre and Plaintiff Richard Peck II, who at all relevant times served as Deputy Fire Chief, both explicitly told the chairperson of the Defendant’s governing board, Christopher Toti, that the pay scheme described herein was unlawful.

34. Further, Plaintiff Andrew Peck also informed Defendant that this pay scheme was and is unlawful.

35. Plaintiff Andrew Peck also contacted various state and federal agencies about the unlawful pay scheme matter, disclosed these communications to Defendant, and attempted to resolve and correct the unlawful pay scheme issue directly with Defendant.

36. However, Defendant refused and continues to refuse to institute a pay scheme that comports with the requirements of the FLSA and RIPWA.

Plaintiff Andrew Peck

37. Plaintiff Andrew Peck has been employed by the Defendants since December 10, 2018 as a Firefighter/EMT.

38. Plaintiff Andrew Peck is currently employed at the rate of approximately \$19.00. per hour when he is working paid shifts as a per diem Firefighter/EMT.

39. Plaintiff Andrew Peck is paid a maximum total yearly stipend of up to \$500 for certain work done while working “volunteer” shifts performing the same work as when he is

working as a per diem Firefighter/EMT, but is not paid for all “volunteer” hours worked doing the same work he performs when working a paid shift as a per diem Firefighter/EMT.

40. For example, from November 1, 2020 through October 31, 2021, Plaintiff Andrew Peck worked approximately One-Hundred Seventy-Three (173) unpaid volunteer hours.

Plaintiff Richard Peck II

41. Plaintiff Richard Peck II has been employed by Defendant since April 22, 1994.

42. He worked as a fulltime Firefighter/EMT until he switched to part-time in 2008.

43. At all times relevant to the issues in this Complaint he served as Deputy Chief.

44. Plaintiff Richard Peck II was and is subject to the same compensation scheme wherein he is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while performing the same work, tasks, and jobs.

45. For example, from November 1, 2020 through October 31, 2021, Plaintiff Richard Peck worked over Four-Hundred Forty-Seven (447) unpaid volunteer hours.

Plaintiff Brett J. Lisak

46. Plaintiff Brett Lisak has been employed by the Defendants since December 9, 2020 as a Firefighter/EMT.

47. Plaintiff Brett Lisak was and is subject to the same compensation scheme wherein he is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

48. For example, between Plaintiff Brett Lisak’s hire date and October, 31, 2021, he worked about Seventy-Five and a half (75.5) unpaid “volunteer” hours.

Plaintiff George Rua

49. Plaintiff George Rua has been employed by the Defendants since June 30, 2021 as a Firefighter/EMT.

50. Plaintiff George Rua was and is subject to the same compensation scheme wherein he is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

51. For example, between Plaintiff Geroge Rua’s hire date and October, 31, 2021, he worked about Forty-Two and a half (42.5) unpaid “volunteer” hours.

Plaintiff Lisa Beausoleil

52. Plaintiff Lisa Beausoleil has been employed by the Defendants since June 6, 2020 as a Firefighter/EMT.

53. Plaintiff Lisa Beausoleil was and is subject to the same compensation scheme wherein she is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

54. For example, from November 1, 2020 through October 31, 2021, Plaintiff Lisa Beausoleil worked about Twenty-Six and a half (26.5) unpaid volunteer hours.

Plaintiff Randy Crowe

55. Plaintiff Randy Crowe has been employed by the Defendants since June 3, 2019 as a Firefighter/EMT.

56. Plaintiff Randy Crowe was and is subject to the same compensation scheme wherein he is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

57. For example, from November 1, 2020 through October 31, 2021, Plaintiff Randy Crowe worked about Sixteen and a half (16.5) unpaid volunteer hours.

Plaintiff Hayley Morin

58. Plaintiff Hayley Morin has been employed by the Defendants since September 27, 2019 as a Firefighter/EMT.

59. Plaintiff Hayley Morin was and is subject to the same compensation scheme wherein she is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

60. For example, from November 1, 2020 through October 31, 2021, Plaintiff Haley Morin worked almost Two-Hundred Ninety-Nine and a half (299.5) unpaid volunteer hours.

Plaintiff Thomas Walker, Jr.

61. Plaintiff Thomas Walker, Jr. has been employed by the Defendants since September 9, 2013 as a Firefighter/EMT.

62. Plaintiff Thomas Walker, Jr. was and is subject to the same compensation scheme wherein he is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

63. For example, from November 1, 2020 through October 31, 2021, Plaintiff Thomas Walker, Jr. worked over One-Hundred Sixty-Seven (167) unpaid volunteer hours.

Plaintiff Mackenzie Beausoleil

64. Plaintiff Mackenzie Beausoleil has been employed by the Defendants since July 22, 2019 as a Firefighter/EMT.

65. Plaintiff Mackenzie Beausoleil was and is subject to the same compensation scheme wherein she is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

66. For example, from November 1, 2020 through October 31, 2021, Plaintiff Mackenzie Beausoleil worked over Four-Hundred and Three (403) unpaid volunteer hours.

Plaintiff Ryan Peck

67. Plaintiff Ryan Peck has been employed by the Defendants since September 17, 2018 as a Firefighter/EMT.

68. Plaintiff Ryan Peck was and is subject to the same compensation scheme wherein he is paid for some hours and offered only a nominal stipend for certain other “volunteer” hours all while doing the same work, tasks, and jobs.

69. For example, from November 1, 2020 through October 31, 2021, Plaintiff Ryan Peck worked over One-Hundred and Twenty-Eight (128) unpaid volunteer hours.

Failure to Compensate Plaintiffs for All Hours Worked

70. At all relevant times, Plaintiffs are and were non-exempt employees entitled to payment at their regular hourly rates for all hours worked under the FLSA and RIPWA.

71. Plaintiff are and were entitled to compensation in an amount equal to the agreed upon hourly rate as prescribed by the FLSA and RIPWA for all hours worked including purported “volunteer” hours.

72. All purported “volunteer” hours are explicitly barred by the FLSA and the RIPWA and must be compensated at each Plaintiffs’ regular hourly rate.

73. The RIPWA broadly defines the word “wages” as “all amounts at which the labor or service rendered is recompensed, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculating the amount. *See, e.g.*, R.I. Gen. Laws § 28-12-3 and § 28-14-1(4).

74. Nevertheless, as alleged above, Defendant willfully and repeatedly violated the FLSA and the RIPWA by failing or refusing to compensate Plaintiff for all hours worked at their regular hourly rates.

75. Indeed, despite both actual and constructive knowledge that the pay scheme is unlawful, Defendant has compensated and continues to compensate Plaintiffs according to this illegal scheme.

76. As a consequence of this illegal payment scheme, Plaintiffs worked more than forty (40) hours in a workweek in certain weeks without receiving payment at time and one-half of their

regular hourly rate in violation of both the FLSA and the RIPWA.

VI. Claims for Relief

77. Plaintiffs incorporate the allegations in ¶¶1 through 76 above in each of the counts set forth below.

Count One
Fair Labor Standards Act,
U.S.C. § 201, et seq.

78. Defendant, by its acts and/or omissions, including, but not limited to, those described herein, violated the FLSA by failing to pay wages and overtime wages for all hours worked as provided therein, thereby causing Plaintiffs to suffer damages as aforesaid, for which they are entitled to relief pursuant to 29 U.S.C. § 216(b).

Count Two
Rhode Island Payment of Wages Act,
R.I. Gen. Laws § 28-12-1, et seq., and
R.I. Gen. Laws § 28-14-1, et seq.

79. Defendant, by its acts and/or omissions, including, but not limited to, those described herein, violated the RIPWA by failing to pay wages and overtime wages for all hours worked as provided therein, thereby causing Plaintiffs to suffer damages as aforesaid, for which they are entitled to relief pursuant to R.I. Gen. Laws § 28-14-19.2 and § 28-14-20.

VII. Prayers for Relief

WHEREFORE, Plaintiffs pray that this Honorable Court grant the following relief:

1. A declaratory judgment declaring that the acts and/or omissions of Defendant, including, but not limited to those complained of herein, are in violation of the FLSA and the RIPWA.
2. An injunction directing Defendant to take such affirmative action as is necessary to refrain from such conduct as is necessary to ensure that the effects of these unlawful employment practices are eliminated and not repeated.

3. An award of compensatory damages.
4. An award of punitive damages.
5. An award of liquidated damages pursuant to 29 U.S.C. § 216(b).
6. An award of liquidated damages of two times the amount of wages and and/or benefits owed pursuant to R.I. Gen. Laws § 28-14-19.2 and § 28-14-20.
7. An award of reasonable attorney's fees and costs of litigation pursuant to 29 U.S.C. § 216(b).
8. An award of reasonable attorney's fees and costs pursuant to R.I. Gen. Laws § 28-14-19.2 and § 28-14-20.
9. An award of other appropriate equitable relief pursuant to 29 U.S.C. § 216(b).
10. An award of other appropriate equitable relief or penalties pursuant to R.I. Gen. Laws § 28-14-19.2.
11. An award of such other and further relief as this Honorable Court deems just and proper.

VIII. Demand for Jury Trial

Plaintiffs hereby demand a trial by jury on all counts so triable.

IX. Designation of Trial Counsel

Plaintiffs hereby designate Richard A Sinapi, Esquire, as trial counsel.

Plaintiffs
By their attorneys,
SINAPI LAW ASSOCIATES, LTD.

Dated: September 9, 2022

/s/ **Richard A. Sinapi, Esq.**
Richard A. Sinapi, Esq. (#2977)
2374 Post Road Suite 201
Warwick, RI 02886
Phone: (401) 739-9690; FAX: (401) 739-9490
Email: ras@sinapilaw.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ANDREW N. PECK, et al.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

SINAPI LAW ASSOCIATES, LTD.
2374 Post Road, Suite 201, Warwick, RI 02886 401-739-9690

DEFENDANTS

PASCOAG FIRE DISTRICT, alias

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 201, et seq.

Brief description of cause: Violation of Fair Labor Standards Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 09/09/2022 SIGNATURE OF ATTORNEY OF RECORD /s/Richard A. Sinapi

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Rhode Island [dropdown icon]

ANDREW N. PECK, RICHARD E. PECK, II, BRETT J. LISAK, GEORGE RUA, LISA M. BEAUSOLEIL, RANDY O. CROWE, HAYLEY MORIN, THOMAS R. WALKER, JR., MACKENZIE R. BEAUSOLEIL, AND RYAN E. PECK

Plaintiff(s)

v.

PASCOAG FIRE DISTRICT, alias

Defendant(s)

Civil Action No. 22-cv-

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PASCOAG FIRE DISTRICT, ALIAS BY AND THROUGH ITS REGISTERED AGENT CHRISTOPHER R. ALGER, ESQ. 1300 DIVISION ROAD, SUITE 206 WEST WARWICK, RI 02893

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

RICHARD A. SINAPI, ESQ. SINAPI LAW ASSOCIATES, LTD. 2374 POST ROAD, SUITE 201 WARWICK, RI 02886

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 22-cv-

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: