

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

MAY 18 2021

JAMES W. McCORMACK, CLERK
By:  DEP CLERK
PLAINTIFFS

**LAEARTHA BANKS and ARIA
LAMBERT, Each Individually and on
Behalf of All Others Similarly Situated**

vs.

No. 4:21-cv- 429 - JM

**CENTENE MANAGEMENT COMPANY, LLC,
and CENTENE CORPORATION**

DEFENDANTS

This case assigned to District Judge Moody
and to Magistrate Judge Volpe

ORIGINAL COMPLAINT—COLLECTIVE ACTION

COME NOW Plaintiffs Laeartha Banks and Aria Lambert ("Plaintiffs"), each individually and on behalf of all others similarly situated, by and through their attorneys Daniel Ford and Josh Sanford of Sanford Law Firm, PLLC, and for their Original Complaint—Collective Action ("Complaint") against Defendants Centene Management Company, LLC, and Centene Corporation (collectively "Defendant" or "Defendants"), they state and allege as follows:

I. PRELIMINARY STATEMENTS

1. This is a collective action brought by Plaintiffs, each individually and on behalf of all others similarly situated, against Defendant for violations of the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the "FLSA"), and the overtime provisions of the Arkansas Minimum Wage Act, Ark. Code Ann. § 11-4-201, *et seq.* (the "AMWA").

2. Plaintiffs seek a declaratory judgment, monetary damages, liquidated damages, prejudgment interest, and a reasonable attorney's fee and costs as a result of

Defendant's policy and practice of failing to pay proper overtime compensation under the FLSA and the AMWA.

II. JURISDICTION AND VENUE

3. The United States District Court for the Eastern District of Arkansas has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this suit raises federal questions under the FLSA.

4. This Complaint also alleges AMWA violations, which arise out of the same set of operative facts as the federal cause of action; accordingly, this Court has supplemental jurisdiction over Plaintiff's AMWA claims pursuant to 28 U.S.C. § 1367(a).

5. Plaintiffs were employed by and performed work for Defendant in Little Rock; therefore, venue is proper within the Central Division of the Eastern District of Arkansas pursuant to 28 U.S.C. § 1391.

III. THE PARTIES

6. Plaintiff Laertha Banks ("Banks") is an individual and resident of Pulaski County.

7. Plaintiff Aria Lamber ("Lambert") is an individual and resident of Pulaski County.

8. Separate Defendant Centene Management Company, LLC ("Centene Management"), is a foreign limited liability company.

9. Centene Management's registered agent for service of process is C T Corporation System, at 120 South Central Avenue, Clayton, Missouri, 63105.

10. Separate Defendant Centene Corporation ("Centene Corporation") is a foreign, for-profit corporation.

11. Centene Corporation's registered agent for service of process is C T Corporation System, at 120 South Central Avenue, Clayton, Missouri, 63105.

12. Defendants, in the course of their business, maintain a website at <https://www.centene.com/>.

IV. FACTUAL ALLEGATIONS

13. Plaintiffs repeat and re-allege all the preceding paragraphs of this Complaint as if fully set forth in this section.

14. Defendants provide healthcare plans and services to its customers.

15. Defendants have unified operational control and management, as well as control over employees, including shared power to supervise, hire and fire, establish wages and wage policies and set schedules for their employees through unified management.

16. Upon information and belief, the revenue generated from Centene Management and Centene Corporation was merged and managed in a unified manner.

17. As a result of this unified operation, control and management, through shared employees and ownership with the authority to establish wages and wage policy, Defendants operated as a single enterprise.

18. Within the three years preceding the filing of this Complaint, Defendant has continuously employed at least four employees.

19. Defendant employs two or more individuals who engage in interstate commerce or business transactions, or who produce goods to be transported or sold in interstate commerce, or who handle, sell, or otherwise work with goods or materials that have been moved in or produced for interstate commerce.

20. Defendant's annual gross volume of sales made or business done is not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated) in each of the three years preceding the filing of the Original Complaint.

21. At all times material herein, Plaintiffs have been entitled to the rights, protections, and benefits provided under the FLSA.

22. Defendant employed Banks as a Utilization Manager from February of 2019 until March of 2021.

23. Defendant employed Lambert as a licensed practical nurse and concurrent review nurse from July of 2019 until February of 2021.

24. Defendant classified Plaintiffs as non-exempt from the overtime requirements of the FLSA and paid them an hourly wage.

25. Plaintiffs worked at Defendant's location in Little Rock.

26. Defendant also employed other hourly-paid employees to perform the work necessary to its business (hereinafter referred to as "hourly employees")

27. In addition to their hourly wage, Plaintiffs regularly received nondiscretionary bonuses ("bonuses").

28. Specifically, Plaintiffs received referral bonuses, as well as annual bonuses based on employee performance and the company's profitability.

29. The bonuses are nondiscretionary because they are based on objective and measurable criteria, and because Plaintiffs expected to receive the bonuses and did in fact receive the bonuses on a regular basis.

30. Upon information and belief, all or most hourly employees received bonuses.

31. Defendant informs its hourly employees of the bonuses upon hiring because the bonuses are part of Defendant's compensation package. Hourly employees expect to receive the bonuses.

32. Defendant directly hired Plaintiffs and other hourly employees, controlled their work schedules, duties, protocols, applications, assignments and employment conditions, and kept at least some records regarding their employment.

33. Plaintiffs and other hourly employees regularly worked in excess of forty hours per week throughout their tenure with Defendant.

34. Defendant paid Plaintiffs and other hourly employees 1.5x times their base hourly rate for the hours they worked over 40 in a workweek.

35. However, Defendant did not include the bonuses that were paid to Plaintiffs and other hourly employees in their regular rates when calculating their overtime pay even though Plaintiffs and other hourly employees received bonuses in pay periods in which they also worked in excess of forty hours per week.

36. Section 778.208 of Title 29 of the Code of Federal Regulations requires that all forms of compensation, such as non-discretionary bonuses, "must be totaled in with other earnings to determine the regular rate on which overtime pay must be based."

37. Defendant violated the FLSA and AMWA by not including all forms of compensation, such the nondiscretionary bonuses of Plaintiffs and other hourly employees, in their regular rate when calculating their overtime pay.

38. Upon information and belief, Defendant's pay practices were the same for all hourly workers who received bonuses.



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