

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JAMES FUTRELL and APRIL BROWN,
each individually and on behalf of all others
similarly situated,

v.

CARGILL, INCORPORATED

Case No. 22-cv-969
FLSA Collective Action
FED. R. CIV. P. 23 Class Action

PLAINTIFFS' ORIGINAL CLASS AND COLLECTIVE ACTION COMPLAINT

SUMMARY

1. Like many other companies across the United States, Cargill's timekeeping and payroll systems were affected by the hack of Kronos in 2021.

2. That hack led to problems in timekeeping and payroll throughout Cargill's organization.

3. As a result, Cargill's workers who were not exempt from overtime under federal and state law were not paid for all hours worked and were not paid their proper overtime premium for all overtime hours worked after the onset of the Kronos hack.

4. James Futrell and April Brown are two such Cargill workers.

5. Cargill could have easily implemented a system to accurately record time and properly pay non-exempt hourly and salaried employees until issues related to the hack were resolved.

6. But it didn't. Instead, Cargill did not pay its non-exempt hourly and salaried employees their full overtime premium for all overtime hours worked, as required by federal law.

7. Cargill pushed the cost of the Kronos hack onto the most economically vulnerable people in its workforce.

8. Cargill made the economic burden of the Kronos hack fall on front-line workers—average Americans—who rely on the full and timely payment of their wages to make ends meet.

9. Cargill's failure to pay wages, including proper overtime, for all hours worked to its workers across the United States violates the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.*

10. Cargill's failure to pay wages, including proper overtime, for all hours worked to its workers in Wisconsin also violates Wisconsin's Wage Payment and Overtime Law, Wis. Stat. §§ 103, 104, 109.01 *et seq.*

11. Futrell and Brown bring this lawsuit to recover these unpaid overtime wages and other damages owed by Cargill to them and Cargill's other non-overtime-exempt workers like them, who were the ultimate victims of not just the Kronos hack, but Cargill's decision to make its own non-exempt employees workers bear the economic burden for the hack.

12. This action seeks to recover the unpaid wages and other damages owed by Cargill to all these workers, along with the penalties, interest, and other remedies provided by federal and Wisconsin law.

JURISDICTION & VENUE

13. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action involves a federal question under the FLSA. 29 U.S.C. § 216(b).

14. The Court has supplemental jurisdiction over any state law sub-classes pursuant to 28 U.S.C. § 1367.

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because Cargill is headquartered in this District.

PARTIES

16. **Plaintiff James Futrell** is a natural person.
17. Futrell was, at all relevant times, an employee of Cargill.
18. Futrell has worked for Cargill since October 2021.
19. **Plaintiff April Brown** is a natural person.
20. Brown was, at all relevant times, an employee of Cargill.
21. Brown has worked for Cargill since April 2019.
22. Brown worked for Cargill in Wisconsin.
23. Futrell and Brown represent at least two groups of similarly situated workers for Cargill.
24. Futrell and Brown represent a collective of similarly situated workers under the FLSA pursuant to 29 U.S.C. § 216(b). This “FLSA Collective” is defined as:

All current or former non-exempt employees of Cargill (including its subsidiaries and alter egos) who worked for Cargill in the United States at any time since the onset of the Kronos ransomware attack, on or about December 11, 2021, to the present.
25. Brown represents a class of similarly situated workers under Wisconsin law pursuant to Federal Rule of Civil Procedure 23. This “Wisconsin Class” is defined as:

All current or former non-exempt employees of Cargill (including its subsidiaries and alter egos) who worked for Cargill in Wisconsin at any time since the onset of the Kronos ransomware attack, on or about December 11, 2021, to the present.
26. Throughout this Complaint, the FLSA Collective and Wisconsin Class members are referred to jointly as the “Similarly Situated Workers.”
27. **Defendant Cargill, Incorporated (“Cargill”)** is a domestic corporation.
28. Cargill maintains its headquarters and principal place of business in this District.

29. Cargill may be served by service upon its registered agent, **United Agent Group, Inc., 5200 Willson Rd., #150, Edina, MN 55424**, or by any other method allowed by law.

30. At all relevant times, Cargill exerted operational control over its subsidiaries and alter egos.

31. At all relevant times, Cargill substantially controlled the terms and conditions of employment for workers of its subsidiaries and alter egos.

32. At all relevant times, Cargill had a common control and management of labor relations regarding employees of its subsidiaries and alter egos.

33. Cargill's subsidiaries and alter egos include, but are not limited to, Cargill Cotton, Cargill Cocoa & Chocolate, Cargill Kitchen Solutions, Cargill Lumber, Cargill Meat, Cargill Ocean Transportation, Diamond Crystal Salt, NatureWorks, Provimi, and Truvia.

34. Cargill employed and/or jointly employed, with its subsidiaries and alter egos, Futrell, Brown, and the Similarly Situated Workers.

35. Cargill and its subsidiaries and alter egos are joint employers for purposes of the FLSA.

36. Cargill and its subsidiaries and alter egos are joint employers for purposes of Wisconsin law.

37. Throughout this Complaint, Cargill and its subsidiaries and alter egos are referred to jointly as "Cargill."

COVERAGE UNDER THE FLSA

38. At all relevant times, Cargill was an employer of Futrell and Brown within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

39. At all relevant times, Cargill was and is an employer of the FLSA Collective Members within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

40. Cargill was and is part of an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

41. During at least the last three years, Cargill has had gross annual sales in excess of \$500,000.

42. Cargill was and is part of an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. § 203(s)(1).

43. Cargill employs many workers, including Futrell and Brown, who are engaged in commerce or in the production of goods for commerce and/or who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce by any person.

44. The goods and materials handled, sold, or otherwise worked on by Futrell, Brown, and other Cargill employees and that have been moved in interstate commerce include, but are not limited to, office equipment and supplies, food, and beverages.

FACTS

45. Cargill is a food corporation.

46. Cargill is the largest privately held corporation in the United States in terms of revenue. Forbes, America's Largest Private Companies, #1 Cargill, <https://www.forbes.com/companies/cargill/?list=largest-private-companies&sh=3b1df8871960> (last visited Apr. 15, 2022).

47. Cargill employs more than 150,000 workers. Cargill, About Cargill <https://www.cargill.com/about> (last visited Apr. 15, 2022).

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