

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

**ZAKKERY CROCKER and BRANDON
WOMACK, Individually and on Behalf
of All Others Similarly Situated**

PLAINTIFFS

v.

No. 3:17-cv-191-DPM

CITY OF LEACHVILLE, ARKANSAS

DEFENDANT

ORDER

Crocker and Womack seek conditional certification of a FLSA collective action. They allege that the City of Leachville denied overtime pay to them and their fellow salaried law enforcement officers. In response, Leachville argues that the case is barely underway and that conditional certification is premature. The Court agrees with Leachville. While the standard for conditional certification is fairly lenient, *Freeman v. Wal-Mart Stores, Inc.*, 256 F. Supp. 2d 941, 944–45 (W.D. Ark. 2003), there are questions about who should be included in any FLSA group or groups. Do different classes of salaried law enforcement officers exist in Leachville? Were they treated differently? Are there other K-9 caretakers, like Crocker, who may deserve pay for their extra hours? One plaintiff estimates that ten total individuals may be affected, but it's not clear that all were affected in the same way. Plus, Leachville says that—after some discovery—it will probably

agree to certification of some group. It's better to answer all these questions at the threshold than to wait and discover, later on, that disparate facts exist within this small proposed group.

Crocker and Womack's motion, No 12, is denied without prejudice as premature and with instructions. The parties must promptly engage in discovery to identify a more solid FLSA group or groups. And the Court tolls the statute of limitations, effective 8 January 2018, while that happens. Agreed or opposed motion to certify due by 12 March 2018.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

8 January 2018