

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

**JASON TORRES, Individually and on
behalf of all others similarly situated**

PLAINTIFF

V.

CASE NO. 4:14CV00515 JM

LINDSEY MANAGEMENT COMPANY, INC.

DEFENDANT

ORDER

Pending is Plaintiff's motion for class certification. (Docket # 5). Defendant has filed a response, Plaintiff has filed a reply, Defendant has filed a sur-reply and a separate motion for leave to file supplemental evidence in opposition to Plaintiff's motion. (Docket # 21). A hearing was held on September 9, 2015 during which the Court heard argument of counsel.

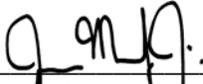
Plaintiff's original complaint alleges that the Defendant violated the overtime and minimum wage provisions of the FLSA, 29 U.S.C. §§201 *et seq.* and the AMWA, Ark. Code Ann. §§11-4-201 *et seq.* by requiring him and other hourly Maintenance Technicians and Senior Maintenance Technicians to work "off-the-clock" for which they received no compensation. Plaintiff's current motion seeks to certify his claims only under the AMWA.

The Court finds that federal jurisdiction should be declined under 28 U.S.C. § 1367(c)(2) over Plaintiff's state law minimum wage act claims because these claims "substantially predominate[] over the claim or claims over which the district court has

original jurisdiction.” 28 U.S.C. § 1367(c)(2). The Court bases its decision on the differences between the class certification process in FLSA claims and AMWA claims; the different statutes of limitations applicable to the claims; the differences in the number of claimants in the respective classes; and Plaintiff’s choice to pursue class certification only for his AMWA claims. The Court finds that these same reasons provide the “exceptional circumstances” and “other compelling reasons” to support the Court declining jurisdiction pursuant to 28 U.S.C. §1367(c)(4).

Accordingly, Plaintiff’s state law AMWA claims are hereby dismissed without prejudice. The motions before the court are MOOT.

IT IS SO ORDERED this 6th day of October, 2015.



James M. Moody Jr.
United States District Judge