

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON  
CASE NO. 5:06-cv-299-JBC

***FILED ELECTRONICALLY***

JUSTIN CRAWFORD ET AL.,

PLAINTIFFS

v.

LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

DEFENDANT

**DEFENDANT'S MOTION TO DECERTIFY MEAL BREAK SUBCLASS**

The Defendant, Lexington-Fayette Urban County Government (“LFUCG”) hereby moves the Court to decertify the subclass of Division of Community Corrections employees conditionally certified by the Court as Subclass A in its Order of May 28, 2008. The Court defined Subclass A as follows:

“Subclass A”, to be comprised of all plaintiffs who, since September 6, 2003, until the present, have been or are now assigned to the Custody, Intake, and/or Master Control Bureaus or “areas” within the DCC, and which shall assert the plaintiffs’ conditionally certified collective claim that the LFUCG has a policy and practice of denying the plaintiffs a bona fide meal break.

A memorandum of law in support of this motion is submitted herewith. For the reasons discussed more fully in LFUCG’s memorandum, the issue of the compensability of meal

breaks involves no practice common to all subclass members, and the relevant facts are so highly individualized that a collective resolution of this claim is impossible. LFUCG also has defenses of estoppel and *de minimis* time which must be addressed on a plaintiff-by-plaintiff basis. In addition, seven of the nine original Plaintiffs who purport to be subclass representatives have declared bankruptcy and have no standing to assert this claim, either on their own behalf or on behalf of the subclass, because the claim belongs to their bankruptcy Trustee. Finally, fairness and procedural considerations require decertification.

WHEREFORE, the LFUCG prays for entry of its tendered order decertifying the above-described meal break subclass.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been electronically filed through the ECF system this 15<sup>th</sup> day of June, 2008, which will send a notice of electronic filing to all parties' counsel in the electronic filing system in this case:

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