

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

-----X  
LUIS A. TINOCO, DILIP SAHU and FLORIN CIUPERCIUC,  
individually and on behalf of all other persons similarly situated  
who are or were employed by Johnson Controls, Inc. with  
respect to Public Works Projects referenced in this Complaint.

Plaintiffs,

CLASS ACTION  
COMPLAINT

-against-

JOHNSON CONTROLS, INC.,

Defendant.

-----X

Plaintiffs, Luis A. Tinoco, Dilip Sahu and Florin Ciuperciuc (“Plaintiffs”), on behalf of the putative class by their attorneys, Menken Simpson & Rozger LLP and The Law Offices of David L. Lee, allege as follows:

**PRELIMINARY STATEMENT**

1. This action is brought on behalf of the Plaintiffs, and a putative class of individuals who worked for Defendant Johnson Controls, Inc., and/or any other entities affiliated with or controlled by Johnson Controls, Inc. (“JCI” or “Defendants”) on publicly financed construction projects, such as public schools, county jails, county buildings and various township office buildings. Plaintiffs seek to recover prevailing wages and fringe benefits which they and members of the putative class were entitled to receive for work they performed on the Public Works Projects but did not receive in violation of the Illinois Prevailing Wage Act, 820 ILCS 130, *et seq.*

**VENUE**

2. Venue is proper in this federal district pursuant to 28 U.S.C. Sec. 1332(a)(1) in that

all of the named Plaintiffs are citizens of Illinois and Defendant JCI is a citizen of Wisconsin and the matter in controversy exceeds the sum or value of \$75,000.

### **PARTIES**

3. Plaintiffs, and other members of the putative class, are individuals who performed labor – installation, assembly, disassembly, programming, service and maintenance on heating, ventilation and air conditioning (HVAC) systems - for JCI in the State of Illinois.

4. Upon information and belief, Defendant JCI is a publicly traded company, incorporated in the State of Wisconsin with its headquarters in Milwaukee, Wisconsin. It has over 100,000 employees around the world, annual revenue of over \$25 billion and six district offices located in Illinois. Unless otherwise alleged herein, all of JCI's employees were acting as agents in doing the things alleged in this complaint and, as such, were acting within the course and scope of that agency and employment.

5. JCI provides HVAC, integrated fire alarm, security, fire suppression, healthcare communications and emergency lighting systems to municipalities, government agencies, corporations, hospitals and educational facilities. Not only does JCI design, engineer and install such systems, they provide inspection, testing, maintenance and monitoring of them, as well.

### **CLASS ALLEGATIONS**

6. This action is properly maintainable as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

7. This action is brought on behalf of Plaintiffs and a class consisting of all persons who performed installation, service and commissioning work on HVAC and other building systems for JCI on the sites of the public works projects listed herein (and others not known at this time) from August 11, 2018 to the entry of judgment in this case (the “class” and “class

period,” respectively).

8. The persons in the class identified above are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, and facts on which the calculation of that number are presently within the sole control of the Defendants, it is believed that there are in excess of 100 members of the class during the class period.

9. There are questions of law and fact common to the class which predominate over any questions affecting only individual members.

10. The claims of Plaintiffs are typical of the claims of the putative class.

11. Plaintiffs and their counsel will fairly and adequately protect the interests of the class. In fact, lead counsel Menken Simpson & Rozger LLP, has successfully represented several thousand electrical and sprinkler workers employed by JCI and/or one of the companies it has acquired, SimplexGrinnell, in four class actions certified and settled in Illinois, New York, New Jersey and California. Co-counsel David Lee provided invaluable assistance in the Illinois class action settled against this same Defendant in 2022.

12. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. This is particularly true in the context of wage and hour litigation where individual plaintiffs lack the financial resources to vigorously prosecute a lawsuit against large corporate defendants such as JCI.

13. There are questions of law and fact common to the class which predominate over any questions solely affecting individual members of the class, including:

(a) whether JCI entered into certain contracts with various government agencies, such as Lake County, Cook County and scores of school districts throughout the State of Illinois to furnish the necessary labor, material and equipment to perform HVAC and pipefitting work

upon the public work projects;

(b) whether JCI paid Plaintiffs and the putative class the prevailing rates of wages and fringe benefits to them and all workers furnishing HVAC and pipefitting labor on the sites of the public works projects;

(c) whether JCI wrongly identified some of the work Plaintiffs and the putative class did as work not requiring the payment of prevailing wages and fringe benefits; and,

(d) whether JCI retained relevant payroll, time and work records as required by law.

### **FACTS**

14. Beginning in at least 2018, and likely for many years before, JCI entered into certain contracts, either as a subcontractor or prime contractor, with certain government agencies (e.g., Cook County, Lake County), or with prime contractors not currently known, to furnish labor, material and equipment to perform HVAC and pipefitting work on these public works projects.

15. The public works contracts required that JCI pay and ensure payment of the relevant prevailing rates of wages and fringe benefits to all workers furnishing HVAC and pipefitting labor on the sites of the public works projects, including their direct employees (like Plaintiffs and the putative class), temporary employees and all other persons furnishing labor on the sites of the public works projects.

16. Upon information and belief, the public works contracts, as mandated by 820 I.L.C.S. 130/4(b), also provided that any subcontracts that JCI entered into contain language requiring the payment of prevailing rates of wages and fringe benefits to all workers furnishing labor on the sites of the public works projects.

17. Whether contained in the public works contracts, on a purchase order or on a separate document annexed or not but considered part of the public works contracts, JCI stipulated and agreed that it would pay its employees prevailing wages and fringe benefits as specified in the Illinois Department of Labor prevailing wage schedules.

18. JCI is responsible for paying Plaintiffs and the putative class the relevant prevailing wages and fringe benefits under Illinois law regardless of whether the public body or entity JCI contracted with provided it with notice to pay prevailing wages and supplements.

19. Under the Illinois Prevailing Wage Act, employees covered by the Act shall be paid “a wage of no less than the prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed...” 820 I.L.C.S. Sec.130/1.

20. Under the Illinois Prevailing Wage Act, employees required to be paid the prevailing wage and fringe benefits “shall be \*\*\* all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction or demolition of public works.” 820 I.L.C.S. Sec.130/3. By statute, this includes any installation, service, maintenance, repair, assembly or disassembly work performed on equipment whether owned, leased or rented.

21. Plaintiffs Tinoco and Ciuperciuc are former JCI employees and Plaintiff Sahu is a current JCI employee. Like the Plaintiffs here, the members of the putative class are current and former JCI Illinois employees who, in furtherance of the public works contracts entered into by JCI, performed various types of HVAC and pipefitting related work including, but not limited to, installing, programming, assembling, disassembling, maintaining, commissioning, repairing and/or replacing heating, ventilation and air condition systems and were not paid the relevant prevailing wages and fringe benefits.

Luis Tinoco

22. Plaintiff Luis Tinoco worked for JCI from 2006 to April 2023.

23. While employed by JCI, Tinoco first worked as a systems technician and then as a lead systems specialist. His general job tasks, including the aforementioned above tasks described above, did not change when he became a lead systems specialist but he was given additional project management responsibilities. He did this work for JCI's private customers and public customers including, but not limited to, public school districts in Waukegan, Glenview, North Chicago, Lake Zurich, Glencoe, Antioch and New Trier.

24. JCI failed to pay Tinoco the proper total prevailing wage and benefit rate for pipefitters as required by Illinois law.

25. In or about late 2022, JCI began to pay Tinoco the proper total prevailing wage and benefit rate for pipefitters pursuant to the Illinois Department of Labor at \$87.73 per hour.

26. Defendant JCI offered him a restitution payment for unpaid prevailing wages and supplemental benefits in early 2023 but he turned it down because it did not compensate him for all that was owed him under Illinois law since 2018.

27. Upon information and belief, there are 6-8 lead systems specialists and 10-15 systems technicians employed at a given time in the Arlington Heights office where Tinoco reported who were also not paid the proper total prevailing wage and benefit rate for pipefitters as required by Illinois law.

28. Upon information and belief, there are 4-6 lead systems specialists and 8-12 systems technicians employed at a given time in the other JCI Illinois offices (i.e., Cicero, Franklin Park, Rock Island, Elmhurst and Oak Brook) who did the same or similar work as the named Plaintiffs herein and were also not paid the proper total prevailing wage and benefit rate

for pipefitters as required by Illinois law.

Dilip Sahu

29. Plaintiff Dilip Sahu started working at JCI in May 2018 and continues to work for the company.

30. Sahu works as a systems technician performing the aforementioned above described HVAC job tasks. He has done this work at and within various Lake and Cook County public job sites such as libraries and schools.

31. Between May 2018 when Sahu started working at JCI until late 2022, JCI paid him between \$29.58 and \$33.63 per hour rather than the proper prevailing wage and benefit rate that was approximately \$87.73 per hour when he worked on public job sites.

32. In or about late 2022, JCI began to pay Sahu the proper total prevailing wage and benefit rate for pipefitters pursuant to the Illinois Department of Labor at least \$87.73 per hour.

33. In 2023, Defendant JCI made several payments to Sahu for only some of the unpaid prevailing wages and benefits he was owed.

Florin Ciupericiuc

34. Plaintiff Ciupericiuc worked at JCI as a systems technician from November 2019 to March 2022.

35. While at JCI, Ciupericiuc performed the aforementioned above described HVAC job tasks for private and public customers. Some of the public customers were Chicago Public Schools, Cook County Jail and Park Ridge School District.

36. During the time Ciupericiuc worked at JCI, JCI paid him between \$34 and \$37 per hour no matter where he worked, rather than the proper prevailing wage and benefit rate that was approximately \$87.73 per hour when he worked on public job sites.

37. Plaintiffs and the putative class were not paid the prevailing wage rate and supplements for the county in which they were working under the Illinois Prevailing Wage Act. But for this proposed class action, individual current or former JCI employees would not have the means, financial or otherwise, to address their wage claims.

38. Defendant JCI's refusal to pay plaintiffs and the putative class the relevant prevailing wages and fringe benefits was willful, permitting recovery of statutory penalties of two percent (2%) per month, pre-judgment interest and attorneys' fees under Illinois law.

39. Plaintiffs seek the certification of a class of plaintiffs consisting of:

“All laborers, workers and mechanics employed by JCI on behalf of any non-federal public body who from August 11, 2018 to the present installed, programmed, assembled, disassembled, serviced, maintained, commissioned, repaired and/or replaced heating, ventilation and air condition systems and were not paid the relevant prevailing wages and fringe benefits in violation of the Illinois Prevailing Wage Act.”

### **FIRST CAUSE OF ACTION**

#### **(Violation of the Illinois Prevailing Wage Act)**

40. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 39 herein.

41. JCI entered into hundreds if not thousands of contracts with public entities or publically funded entities to perform work on HVAC systems equipment contained in public buildings located in Illinois.

42. Pursuant to said contracts and the Illinois Prevailing Wage Act, JCI was and remains legally obligated by law to pay its employees working on these public projects no less



than the general prevailing wages and fringe benefits paid for such work in the locality in which the work is performed.

43. Plaintiffs and the putative class of JCI employees installed, programmed, assembled, disassembled, serviced, maintained, commissioned, repaired and/or replaced heating, ventilation and air condition systems and were paid less than the prevailing wages and fringe benefits required by the Illinois Prevailing Wage Act and the relevant prevailing wage schedules issued by the Illinois Department of Labor.

44. JCI's violation of the Illinois Prevailing Wage Act, by failing to pay Plaintiffs and the putative class prevailing wages and fringe benefits, was willful and authorizes the recovery of statutory penalties of two percent (2%) per month, pre-judgment interest and attorneys' fees under Illinois law.

45. As a result of its violation of the Illinois Prevailing Wage Act, JCI is liable to plaintiffs and the other members of the putative class in an amount yet to be determined but believed to exceed \$2,000,000.00 plus interest.

**SECOND CAUSE OF ACTION (Pled in the Alternative)**

**UNJUST ENRICHMENT**

46. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 45 herein.

47. Plaintiffs and members of the putative class have performed a significant amount of work for which they have not been paid.

48. Upon information and belief, when JCI entered into the public works contracts, it agreed to pay the required prevailing wage and fringe benefit rates of pay to Plaintiffs and members of the putative class.

49. Upon information and belief, JCI billed the public customer, such as Cook or Lake County, for labor performed by plaintiffs and members of the putative class at the higher prevailing and fringe benefit rates, which JCI did not pay.

50. As a result of this failure to pay said wages, JCI was unjustly enriched for work and services performed by Plaintiffs and members of the putative class in an amount believed to exceed \$2,000,000.00, plus interest.

WHEREFORE, Plaintiffs and the putative class of similarly situated former and current JCI employees who worked on Illinois public job sites doing work on heating, ventilation and air condition systems demand judgment as follows:

- a. Certification of the proposed class, defined as described above, and issuance of notice pursuant to Rule 23, as soon as possible to all similarly situated former and current JCI employees employed since August 11, 2018;
- b. Damages in an amount in excess of \$2,000,000;
- c. Statutory damages of 2% per month of the amount of wages due Plaintiffs and the putative class pursuant to Illinois law;
- d. Pre-judgment interest pursuant to Illinois law;
- e. Attorneys' fees and costs associated with this action; and,
- f. All other relief that this court deems appropriate.

LUIS A. TINOCO, et al., plaintiffs

By: /s/ David L. Lee

David L. Lee, ARDC #1604422  
LAW OFFICES OF DAVID L. LEE  
525 S. Dearborn St., #660  
Chicago, IL 60605  
312-952-1321  
d-lee@davidleelaw.com

MENKEN SIMPSON & ROZGER LLP  
Bruce E. Menken (*Pro Hac Vice* to be applied for)  
Jason J. Rozger (*Pro Hac Vice* to be applied for)  
80 Pine Street, 33rd Floor  
New York, NY 10005  
212-509-1616  
bmenken@nyemployeelaw.com