

Missouri Lawyers

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WEEKLY

■ DEFENSE VERDICT

Jury says cable installers were contractors, not entitled to receive overtime payments

UNPAID OVERTIME

- **Venue:** U.S. District Court for the Eastern District of Missouri
- **Case number/date:** 1:12-cv-00005/June 19, 2014
- **Judge:** Stephen N. Limbaugh Jr.
- **Last pretrial demand:** \$400,000
- **Last offer:** \$0
- **Caption:** Bryan Pennington, Steve Pennington Sr. and Steve Pennington Jr. v. Integrity Communications LLC and Holly and Ray Rehder
- **Plaintiffs' attorneys:** Kevin J. Dolley and Jason Finkes, The Law Offices of Kevin Dolley, St. Louis; Russell Riggan and Samuel W. Moore, Riggan Law Firm, Kirkwood; Mark A. Koupal Jr., Brown & James, St. Louis; Sarah Jane Hunt, Law Office of Thomas E. Kennedy III, St. Louis
- **Defendants' attorneys:** Joseph C. Blanton Jr., Bryan E. Nickell and Shaun D. Hanschen, Blanton, Rice, Nickell, Cozean & Collins, Sikeston

BY ALAN SCHER ZAGIER
Special to Missouri Lawyers Media

A federal jury in southeastern Missouri rejected efforts by three cable installers to recoup unpaid overtime, siding with the Sikeston company that employed the men as independent contractors.

Bryan Pennington of Park Hills, his cousin Stephen Pennington Jr. and uncle Stephen Pennington Sr. sued Integrity Communications of Sikeston in November 2011 in U.S. District Court. Company owners Ray and Holly Rehder, a Republican state representative, were also named as defendants.

Pennington, citing the federal Fair Labor Standards Act, said they were wrongly classified as contractors and paid a per-job rate, regardless of hours worked, even as many of the job's requirements mirrored those of hourly employees, such as wearing company uniforms, only using approved tools

and not simultaneously working for any Integrity competitors.

They were expected to work overtime and pay their own travel expenses while working for Integrity in Missouri, Kentucky and Illinois, the complaint said.

The plaintiffs originally sought class action status on behalf of other cable installers, but Judge Stephen Limbaugh Jr. rejected that approach. Plaintiffs' attorneys did not respond to several interview requests seeking comment.

The case went to trial in June, with the jury deliberating for just 90 minutes after four days of testimony, said defense attorney Joseph C. Blanton Jr. of Blanton, Rice, Nickell, Cozean & Collins in Sikeston.

"We believed it was very clear that the plaintiffs were in business for themselves," he said. "They were not employees."

"The work is very irregular and very seasonal," he added. "Companies like Integrity fill the gaps." **MO**



Joseph C. Blanton Jr.



Bryan E. Nickell



Shaun D. Hanschen