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GLENN S. HALL

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MEGAN PELLINO, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

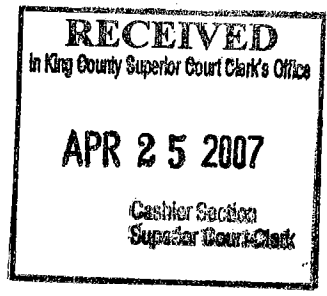
BRINK'S INCORPORATED, DAVID
BARGMAN, and JOHN DOE,

Defendants.

07-2-13469-7 SEA

No.

CLASS ACTION COMPLAINT



Plaintiff claims against defendants as follows:

I. NATURE OF ACTION

1.1 Plaintiff brings this class action for money damages and statutory penalties for wage law violations on behalf of current and former employees of defendant Brink's, Incorporated ("Brink's," "company," or "employer") for violations of the Washington Minimum Wage Act ("MWA"), RCW 49.46, and of the Washington Industrial Welfare Act ("IWA"), RCW 49.12, and WAC 296-126-092.

1 **II. JURISDICTION AND VENUE**

2 2.1 The Superior Court of Washington has jurisdiction of plaintiffs' claims
3 pursuant to RCW 2.08.010 and CR 23.

4 2.2 Venue in King County is appropriate pursuant to RCW 4.12.025.

5 2.3 All or a significant portion of the acts and omissions alleged herein took
6 place in the state of Washington, and King County.
7

8 **III. PARTIES**

9 3.1 Plaintiff Megan Pellino is a resident of Kent, Washington in King County,
10 and was formerly employed by Brink's.

11 3.2 Defendant Brink's is a corporation doing business in King County and in the
12 State of Washington. Brink's is an employer for purposes of the MWA and the IWA.
13

14 3.3 Defendant David Bargman is, upon information and belief, a resident of
15 Pierce County in Washington state, and is employed as the Branch Manager of the Brink's
16 facility in Seattle, Washington. Upon information and belief, Mr. Bargman is an employer
17 for purposes of the MWA and the IWA and a vice-principal and/or agent for purposes of
18 RCW 49.52.050 and 49.52.070.
19

20 3.4 Defendant John Doe is employed as the Branch Manager of the Brink's
21 facility in Taccma, Washington. His residence is unknown at this time. Upon information
22 and belief, John Doe is an employer for purposes of the MWA and the IWA, and a vice-
23 principal and/or agent for purposes of RCW 49.52.050 and 49.52.070.
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1 **IV. FACTUAL ALLEGATIONS**

2 4.1 Members of the class work and have worked for defendants as “drivers,”
3 “messengers,” “guards” or similar classifications.

4 4.2 Class members are responsible for the transportation of cash and other
5 valuables, and are dispatched out of two branches in Western Washington, one in Seattle
6 and the other one in Tacoma.

7 4.3 Class members are not paid for their time expended on a variety of duties
8 that are performed at the beginning of the work day. These work duties are performed prior
9 to the assigned “start time” of the employee’s shift but the employer has authorized class
10 members to perform this work and is aware that such duties are performed. These “pre-
11 shift” duties include, but are not limited to, completing paperwork, donning of a bullet-
12 proof vest and a gun-belt, receipt of a weapon and the “liability” (i.e., cash and other
13 valuables), and loading of the truck.

14 4.4 If a class members performs these duties “pre-shift,” such time is, upon
15 information and belief, manually removed by Brink’s personnel from the payroll records.
16 As a consequence, class members are not paid for their time worked.

17 4.5 In addition, class members are not provided with paid rest breaks in
18 accordance with Washington law.

19 4.6 Further, class members are not provided with paid meal periods in
20 accordance with Washington law.

21 4.7 During the class period, plaintiffs and other class members routinely worked
22 in excess of forty hours per week.
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1 4.8 Defendants knew that plaintiffs and other members of the class were
2 working in excess of forty hours per week without receipt of overtime or regular
3 compensation for all hours worked, and were not able to take the required rest and meal
4 breaks, and nonetheless continued to require and allow such pay practices to continue.

5
6 4.9 In failing to pay required compensation to plaintiffs and members of the
7 class for off-the-clock work, and in failing to provide for the required paid rest and meal
8 breaks, defendants have acted willfully and with the intent of depriving plaintiffs and
9 members of the class of the requisite overtime or regular compensation.

10 **V. CLASS ACTION ALLEGATIONS**

11
12 5.1 The plaintiff seeks to represent all past and present employees employed by
13 defendants in Washington as a "drivers," "messengers," "guards," or similar classifications,
14 during the three years preceding the filing of this complaint.

15 5.2 The action is properly maintainable under CR 23(a) and (b)(3).

16 5.3 The class described in paragraph 5.1 is sufficiently numerous such that
17 joinder of all of them is impractical, as required by CR 23(a)(1).

18 5.4 Pursuant to CR 23(a)(2), there are common questions of law and fact
19 including, but not limited to, whether the defendants failed to pay class members one and
20 one-half times their regular rate of pay; whether class members performed work duties "off-
21 the-clock"; whether the defendants have an illegal policy and practice of not permitting
22 class members to take required rest and meal breaks; and whether the defendants, in failing
23 to pay wages and to provide for required rest and meal breaks, have acted willfully and with
24 the intent to deprive plaintiff and the members of the class of such compensation.
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1 5.5 Pursuant to CR 23(a)(3), the class representative's wage and hour claims are
2 typical of the claims of all class members and of defendants' anticipated affirmative
3 defenses thereto.

4 5.6 The class representative will fairly and adequately protect the interests of the
5 class as required by CR 23(a)(4).

6 5.7 Pursuant to CR 23(b)(3), class certification is appropriate here because
7 questions of law or fact common to members of the class predominate over any questions
8 affecting only individual members, and because a class action is superior to other available
9 methods for the fair and efficient adjudication of the controversy.
10

11 **VI. FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY**
12 **OVERTIME WAGES IN VIOLATION OF THE WASHINGTON**
13 **STATE MINIMUM WAGE ACT**

14 6.1 Plaintiff restates and realleges the allegations set forth in paragraphs 1.1
15 through 5.7 above.

16 6.2 Defendants' failure to pay class members one and one-half times their
17 regular rate of pay for hours worked in excess of forty in their work weeks constitutes a
18 violation of RCW 49.46.130.

19 6.3 As a result of defendants' acts and omissions, plaintiff and class members
20 have been damaged in amounts as will be proven at trial.

21 **VII. SECOND CAUSE OF ACTION - CLASSWIDE FAILURE TO**
22 **PROVIDE AND PAY FOR REST AND MEAL BREAKS**
23 **AS REQUIRED UNDER WASHINGTON LAW**

24 7.1 Plaintiff restates and realleges the allegations set forth in paragraphs 1.1
25 through 6.3 above.
26

1 7.2 Defendants' failure to provide and pay for rest breaks constitutes a violation
2 of RCW 49.12 and WAC 296-126-092.

3 7.3 Defendants' failure to provide and pay for meal breaks constitutes a violation
4 of RCW 49.12 and WAC 296-126-092.

5 7.4 As a result of defendants' acts and omissions, plaintiff and class members
6 have been damaged in amounts as will be proven at trial.
7

8 **VIII. THIRD CAUSE OF ACTION - CLASSWIDE FAILURE TO PAY FOR**
9 **WORK AS REQUIRED BY EMPLOYMENT POLICIES AND**
10 **AGREEMENTS**

11 8.1 Plaintiff restates and realleges the allegations set forth at paragraphs 1.1
12 through 7.4 above.

13 8.2 Some of the off-the-clock work hours performed by class members may have
14 fallen in work weeks in which class members worked less than forty hours of work.

15 8.3 As to those hours, defendants have breached the employment policies and
16 agreements applicable to plaintiff and class members and have been violating statutory
17 requirements, including RCW 49.46.020 and RCW 49.48.010, by failing to pay for these hours
18 worked at the agreed upon hourly pay rates.

19 8.4 As a result of defendants' acts and omissions, plaintiff and class members
20 have been damaged in amounts as will be proven at trial.
21

22 **IX. FOURTH CAUSE OF ACTION - CLASSWIDE WILLFUL**
23 **WITHHOLDING OF WAGES IN VIOLATION OF RCW 49.52**

24 9.1 Plaintiff restates and realleges the allegations set forth in paragraphs 1.1
25 through 8.4 above as if fully set forth herein.
26

1 9.2 By the foregoing, defendants' actions constitute willful withholding of
2 agreed upon wages in violation of RCW 49.52.050 and .070.

3 9.3 Defendants Bargman and Doe are managers with supervisory authority over
4 plaintiff and class members. Upon information and belief, the individual defendants
5 directed, implemented, and/or ratified the off-the-clock work at issue herein, and have
6 direct control over the payment of wages. Accordingly, they are vice-principals and/or
7 agents of Brink's under RCW 49.52, and are individually liable for the willful withholding
8 of wages.
9

10 9.4 As a direct and proximate result of the foregoing, plaintiff and class
11 members have suffered and continue to suffer loss of compensation in amounts as will be
12 proven at trial.
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14 **X. PRAYER FOR RELIEF**

15 WHEREFORE, plaintiff requests this Court enter an order granting her and class
16 members the following relief:

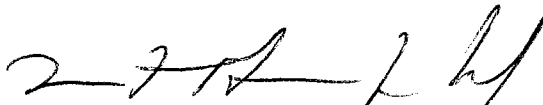
- 17 A. Damages for lost wages in amounts to be proven at trial;
- 18 B. Exemplary damages in amounts equal to double the wages due to class
19 members, pursuant to RCW 49.52.070;
- 20 C. Attorneys fees and costs pursuant to RCW 49.46.090, 49.48.030 and RCW
21 49.52.070;
- 22 D. Prejudgment interest;
- 23 E. All damages and attorneys fees owed to plaintiff amount to less than
24 \$75,000;
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1 F. All damages and attorneys fees owed to the class as a whole amount to less
2 than \$5,000,000; and

3 G. Such other and further relief as the Court deems just and proper.

4 DATED this 24th day of April, 2007.

5
6 SCHROETER, GOLDMARK & BENDER

7 

8 MARTIN S. GARFINKEL, WSBA #20787

9 ADAM J. BERGER, WSBA #20714

10 Counsel for Plaintiffs
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