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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF SKAGIT

9 ROCKY STANEK, individually and as a
10 class representative,

Plaintiff,

11 v.

12 MATRIX SERVICE, INC.,

13 Defendant.
14
15

No. **06 2 01592 7**

COMPLAINT FOR WAGE AND
16 HOUR LAW VIOLATIONS

17 **CLASS ACTION**

18 **I. PARTIES**

19 1.1 Plaintiff Rocky Stanek is an adult who was employed by defendant Matrix
20 Service, Inc. during the past three years, working at the Tesoro Refining and Marketing
21 Company's Anacortes, Washington, refinery. Plaintiff resides in Skagit County,
22 Washington.

23 1.2 Plaintiff files this action on behalf of himself and class members defined as
24 follows:

25 All workers employed by Matrix Service, Inc. who worked at the Tesoro refinery in
26 Anacortes, Washington, during any time between September 1, 2003 through
December 31, 2006, excluding managerial employees and workers employed
exclusively on discreet short-term special projects such as shut downs.

1 1.3 Defendant Matrix Service, Inc. (“Matrix”) is a Delaware corporation,
2 headquartered in Tulsa, Oklahoma, that is registered to do business in Washington State. It
3 provides construction, repair, and maintenance services to industrial clients, and supplies
4 approximately 60–70 workers at a given time to the Tesoro refinery located in Skagit
5 County, Washington, exclusive of managerial and discrete short-term project employees.

6 1.4 Because plaintiff and most class members reside in Skagit County, defendant
7 does business in Skagit County, and the acts complained of herein occurred in Skagit County,
8 venue is proper in Skagit County Superior Court.

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10 **II. FACTS**

11 2.1 Plaintiff was employed by defendant to perform maintenance work at the
12 Tesoro Anacortes refinery.

13 2.2 Plaintiff performed unpaid work at the beginning and end of each shift,
14 including but not limited to activities such as donning and doffing protective gear, obtaining
15 and storing tools, and traveling to and from his work sites.

16 2.3 Plaintiff clocked in at the beginning of the workday and clocked out at the end
17 of his workday, but was paid based on the official start and stop times without regard to the
18 clocked times, which payment method excluded work performed before and after official
19 hours.

20 2.4 Much of plaintiff’s off-the-clock work was performed in workweeks in which
21 plaintiff worked in excess of 40 hours.

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24 **III. CLASS FACTS**

25 3.1 Class members have been employed by defendant to perform maintenance
26 work at the Tesoro Anacortes refinery.

1 3.2 Class members have performed and continue to perform unpaid work at the
2 beginning and end of each shift, including but not limited to activities such as donning and
3 doffing protective gear, obtaining and storing tools, traveling to and from their work sites,
4 and prepping and cleaning equipment.

5 3.3 Class members clock in at the beginning of the workday and clock out at the
6 end of their workday, but are paid based on the official start and stop times without regard to
7 the clocked times, which payment method excludes work performed before and after official
8 hours.

9 3.4 Much of the class members' off-the-clock work is performed in workweeks in
10 which class members work in excess of 40 hours.

11 3.5 The events describe hereinabove continue at the time of the complaint.

12 3.6 Defendant has been and continues to willfully violate state wage and hour
13 statutes and regulations with the intent to deprive the class members of a part of their wages.

14 3.7 The proposed class numbers approximately 100 individuals.

15 3.8 There are questions of law and fact common to the class.

16 3.9 Virtually all legal issues in this case are common class issues, including issues
17 of the what constitutes work, when the workday commences, deference to be given to
18 Department of Labor & Industries regulations, policies and practices, any affirmative
19 defenses to be advanced by defendant, plaintiff's right to conduct videotaping and expert
20 evaluations inside the facility, and other legal issues which will arise during this litigation.

21 3.10 Class members share numerous common issues of fact, involving matters such
22 as amounts of time it takes to do various activities, the time work begins and ends in relation
23 to paid starting and stopping times, liability and damages issues which will be tried applying
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1 Minimum Wage Act (“MWA”) principles of representative evidence, and the willfulness of
2 defendant’s violations for purposes of RCW 49.52.050 & .070 exemplary damages.

3 3.11 For example, class member claims will depend on production of common
4 documents such as electronic payroll records, job classifications, electronic timecard data,
5 and common company policies relative to pre-production and post-production activities.

6 3.12 The named plaintiff will fairly and adequately protect the interests of the class
7 and has made arrangements with experienced counsel to represent the class members with
8 vigor and zeal within the bounds of the law.

9 3.13 The questions of law and fact common to the class members predominate over
10 any questions affecting only individual class members, particularly in light of the rules of
11 representative evidence and the relaxed burdens of proof in MWA cases.

12 3.14 A class action is superior to other available methods for the fair and efficient
13 adjudication of the controversy.

14 3.15 Individual class members have little interest in individually controlling the
15 prosecution of their claims given the relatively small amounts of each claim, their relative
16 lack of sophistication, and the difficulties involved in bringing individual litigation against
17 one’s current employer.

18 3.16 Plaintiff is unaware of any other litigation concerning this controversy
19 commenced by or for other class members.

20 3.17 This litigation should be concentrated in this forum because all class members
21 were employed to work in the Tesoro refinery, located within this forum.
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1 3.18 The court has the resources, abilities and procedures to effectively manage
2 this class action, particularly with application of the substantive wage and hour law of
3 representative evidence and relaxed burdens of proof.

4 3.19 Defendant willfully violated state wage and hour statutes and regulations with
5 the intent and effect of depriving class members of a part of their wages.

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7 **IV. CLAIM – STATE WAGE AND HOUR LAW VIOLATIONS**

8 4.1 Plaintiff repeats and re-alleges the prior allegations of the complaint as if
9 repeated hereat completely.

10 4.2 Defendant violated RCW 49.46.020 by permitting unpaid work to be
11 performed prior to the start of the paid workday and after the end of the paid workday.

12 4.3 Defendant violated RCW 49.46.130 by permitting plaintiff and class members
13 to perform off-the-clock overtime work, i.e., unpaid work performed by an employee who
14 has worked in excess of forty hours during the workweek.

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16 4.4 The above-described state law wage and hour violations were committed
17 willfully and with intent to deprive class members of wages and thus violate RCW 49.52.050
18 and RCW 49.52.070.

19 4.5 Plaintiff and class members only seek relief relating to work performed for the
20 period between September 6, 2003, and December 31, 2006.

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22 **V. LACK OF FEDERAL JURISDICTION**

23 5.1 Plaintiff's and the class members' claims are not subject to the jurisdiction of
24 the federal courts.

25 5.2 Plaintiff and the class members are pleading and pursuing independent state
26 law claims that devolve upon them as individuals.

