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The Honorable Raquel Montoya-Lewis

WHATCOM COUNTY
WASHINGTON

BY _____

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

ROBERT MCALLISTER and JOSH BAILEY,
individually and on behalf of others similarly
situated,

Plaintiffs,

v.

INTALCO ALUMINUM LLC, a subsidiary of
ALCOA CORPORATION,

Defendant.

NO. 17-2-01629-9

FIRST AMENDED CLASS
ACTION COMPLAINT

I. NATURE OF ACTION

1.1 Plaintiffs brings this class action for money damages and statutory penalties for wage law violations on behalf of current and former employees of defendant Intalco Aluminum LLC, a subsidiary of Alcoa Corporation, d/b/a "Alcoa Intalco Works" ("Intalco," "company," or "employer") for violations of the Washington Minimum Wage Act ("MWA"), RCW 49.46.

1.2 This complaint alleges that this class of employees have been deprived of pay for work performed before the start of their assigned work shifts.

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 Whatcom County is appropriate pursuant to RCW 4.12.025.

5 2.3 The named plaintiffs allege that each has been harmed in an amount that
6 does not exceed \$75,000, exclusive of interest and costs.
7

8 **III. PARTIES**

9 3.1 Plaintiff Robert McAllister is a resident of the city of Blaine, in Whatcom
10 County, Washington. He is currently employed by the defendant as a driver in the Cast
11 House, and is an employee for purposes of the Washington State Minimum Wage Act
12 ("MWA"), RCW 49.46.

13 3.2 Plaintiff Josh Bailey is a resident of the City of Ferndale, in Whatcom
14 County, Washington. He is currently employed by the defendant as a driver in the Cast
15 House, and is an employee for purposes of the MWA.
16

17 3.3 Defendant Intalco Aluminum LLC, a subsidiary of the Alcoa Corporation, is
18 a Delaware corporation which does business in the State of Washington and in Whatcom
19 County, including at a facility in Ferndale, Washington ("the Ferndale Plant"). Intalco is an
20 employer for purposes of the MWA.
21

22 **IV. CLASS ACTION ALLEGATIONS**

23 4.1 The class representatives seek to represent all current and former employees
24 of defendant who, at any point during the three years preceding the filing of this Complaint
25 and thereafter, worked on the Potlines and in the Cast House at the Ferndale Plant in any of
26 the following positions: Potline operator, Potline floater, Cast House furnace operator, Cast

1 House saw operator, Cast House caster, Cast House driver, or Cast House blue room
2 operator, but excluding all lead persons in or related to the aforementioned Cast House
3 positions.

4 4.2 The action is properly maintainable under CR 23(a) and (b)(3).

5 4.3 The class described in paragraph 4.1 is sufficiently numerous such that
6 joinder of all of them is impractical, as required by CR 23(a)(1).

7 4.4 Pursuant to CR 23(a)(2), there are common questions of law and fact
8 including, but not limited to, whether the defendant failed to pay class members for time
9 during which they were authorized and known by defendant to be on duty at the
10 defendant's work place and during which they were directed, suffered, permitted and/or
11 allowed to perform work for the defendant.

12 4.5 Pursuant to CR 23(a)(3), the class representatives' wage claims, as well as
13 defendant's anticipated affirmative defenses thereto, are typical of the claims of all class
14 members and of defendant's anticipated affirmative defenses thereto.

15 4.6 The class representatives and their counsel will fairly and adequately protect
16 the interests of the class as required by CR 23(a)(4).

17 4.7 Pursuant to CR 23(b)(3), class certification is appropriate here because
18 questions of law or fact common to members of the class predominate over any questions
19 affecting only individual members, and because a class action is superior to other available
20 methods for the fair and efficient adjudication of the controversy.

21 **V. FACTUAL ALLEGATIONS**

22 5.1 Defendant is engaged in the smelting and manufacture of aluminum ingots at
23 its Ferndale Plant.

1 5.2 During the time period relevant to this complaint, plaintiffs and class
2 members worked for defendant in job positions assigned to the Potlines and the Cast House.

3 5.3 Class members are not paid for the work performed prior the beginning of
4 their assigned work shifts, which work includes the donning of personal protective gear and
5 equipment that is necessary to work in the Ferndale Plant, the walk time between the time
6 clock to the locker room (where the personal protective gear and equipment is stored) and
7 thereafter to their work stations; and (for the Potline operators and floaters) the time spent
8 performing shift relief.
9

10 5.4 During the class period, plaintiffs and other class members routinely worked
11 in excess of forty hours per week.

12 5.5 Defendant knew that plaintiffs and other members of the class worked
13 without pay for the time spent before each work shift, and nonetheless continued to require
14 and allow such pay practices to continue.
15

16 **VI. FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY**
17 **OVERTIME WAGES IN VIOLATION OF THE WASHINGTON STATE**
18 **MINIMUM WAGE ACT**

19 6.1 Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1
20 through 5.5 above.

21 6.2 Defendant's failure to pay class members one and one-half times their
22 regular rate of pay for all hours worked in excess of forty in their work weeks constitutes a
23 violation of RCW 49.46.130.

24 6.3 As a result of defendant's acts and omissions, plaintiffs and class members
25 have been damaged in amounts as will be proven at trial.
26

1 **VII. SECOND CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY**
2 **MINIMUM WAGE IN VIOLATION OF THE WASHINGTON STATE**
3 **MINIMUM WAGE ACT**

4 7.1 Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1
5 through 6.3 above.

6 7.2 Some of the off-the-clock work performed by class members occurred in work
7 weeks in which class members worked less than forty hours.

8 7.3 As to those hours, defendant has violated statutory wage laws, including RCW
9 49.46.020, 49.46.070, and RCW 49.48.010 by failing to record and pay for these hours worked
10 at the statutory minimum wage rates.

11 **VIII. REQUEST FOR RELIEF**

12 WHEREFORE, plaintiffs request that this Court enter an order certifying the class,
13 and granting them and class members the following relief:

- 14 A. Damages for lost wages in amounts to be proven at trial;
- 15 B. Attorneys fees and costs pursuant to RCW 49.46.090 and 49.48.030;
- 16 C. Prejudgment interest; and
- 17 D. Such other and further relief as the Court deems just and proper.

18 DATED this 24th day of August, 2017.

19
20 SCHROETER GOLDMARK & BENDER

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23 _____
24 Martin S. Garfinkel, WSBA #20787
25 Lindsay L. Halm, WSBA #37141
26 Adam J. Berger, WSBA #20714
Jamal Whitehead, WSBA #39818

Attorneys for Plaintiffs