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

MIKHAIL GADOMSKIY,

Plaintiff,

v.

DIRECTV LLC, a foreign corporation,

Defendant.

No. 17-2-09454-4 SEA

SECOND AMENDED CLASS
ACTION COMPLAINT

Plaintiff claims against Defendant as follows:

I. NATURE OF ACTION

1.1. Plaintiff brings this class action for money damages and statutory penalties on behalf of current and former employees of Defendant DirecTV LLC (“DirecTV”) for violations of Washington’s Minimum Wage Act (“MWA”), RCW 49.46, and Washington’s Wage Rebate Act (“WRA”), RCW 49.52.

II. JURISDICTION AND VENUE

2.1. The Superior Court of Washington has jurisdiction of Plaintiff’s claims pursuant to RCW 2.08.010 and CR 23.

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

2.3. All or a significant portion of the acts and omissions alleged in this Complaint took place in the State of Washington and King County.

III. PARTIES

3.1. Defendant DirecTV LLC is a California corporation that conducts business in King County, Washington and throughout the State of Washington. DirecTV is an “employer” for purposes of the MWA and WRA.

3.2. Plaintiff Mikhail Gadomskiy is a resident of Auburn, Washington. Mr. Gadomskiy is currently employed as a satellite installation technician by DirecTV.

IV. FACTUAL ALLEGATIONS

4.1. DirecTV provides satellite television services to its customers located in the State of Washington.

4.2. Plaintiff and members of the class are current and former employees of DirecTV who are or were employed in the State of Washington as satellite installation technicians, home service technicians, or similar job classifications (together, “Technicians”).

4.3. Technicians install and service satellite television products for DirecTV customers, traveling from job site to job site during the day.

4.4. DirecTV supplies Technicians with trucks bearing the Company’s logo, configured to carry the necessary tools and equipment for the job.

4.5. DirecTV requires or allows Technicians to take their Company vehicles home and dispatches them to customer locations directly from their homes.

1 4.6. During some or all of the time periods relevant hereto, DirecTV has refused to
 2 compensate Technicians for all hours worked, including but not limited to: (a) time spent
 3 driving in Company-issued trucks at the beginning and end of each workday (i.e., from home
 4 to job sites and from job sites to home), (b) time spent driving between job sites, (c) time
 5 spent driving between DirecTV offices and job sites, (d) time spent at DirecTV offices
 6 attending meetings, restocking vehicles with equipment and supplies, and for other purposes,
 7 and/or (e) time spent at customer locations when the Technician was not able to complete the
 8 work assignment.
 9

10 4.4 Technicians routinely work and have worked in excess of forty hours per
 11 week.
 12

13 4.7. DirecTV knows that Technicians work and have worked in excess of forty
 14 hours per week without receipt of overtime or regular compensation for all hours worked and
 15 nonetheless allows such pay practices to continue.
 16

17 4.8. In failing to pay required compensation to Mr. Gadomskiy and members of
 18 the class for all of their hours worked, DirecTV has acted willfully and with the intent of
 19 depriving Technicians of the requisite overtime and regular compensation.
 20

21 **V. CLASS ACTION ALLEGATIONS**

22 5.1. Plaintiff seeks to represent all current and former employees of DirecTV who
 23 worked in Washington as Technicians at any time beginning three years prior to the filing of
 24 this Complaint and thereafter and who drove a Company vehicle.
 25

26 5.2 The action is properly maintainable under CR 23(a) and (b)(3).

 5.3 The class described is sufficiently numerous such that joinder of all of its
 members is impractical, as required by CR 23(a)(1).

1 5.4 Pursuant to CR 23(a)(2), there are common questions of law and fact
2 including, but not limited to, whether class members are entitled to pay for all of their travel
3 time, restocking time, and/or meeting time; whether DirecTV failed to pay class members
4 one and one-half times their regular rate of pay for travel time and other hours worked
5 exceeding 40 hours in a work week; whether DirecTV failed to properly calculate
6 Technicians' regular rate of pay for overtime purposes by excluding travel time, office time,
7 and other hours worked from the calculation; and whether the Company, in failing to pay
8 wages, has acted willfully and with the intent of depriving Plaintiff and members of the class
9 of such compensation.
10

11 5.5 Pursuant to CR 23(a)(3), Mr. Gadomskiy's wage and hour claims are typical
12 of the claims of all class members and of DirecTV's anticipated affirmative defenses to such
13 claims.
14

15 5.6 Mr. Gadomskiy will fairly and adequately protect the interests of the class as
16 required by CR 23(a)(4).
17

18 5.7 Pursuant to CR 23(b)(3), class certification is appropriate here because
19 questions of law or fact common to members of the class predominate over any questions
20 affecting only individual members and because a class action is superior to other available
21 methods for the fair and efficient adjudication of the controversy.

22 **VI. FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY WAGES IN
23 VIOLATION OF THE WASHINGTON STATE MINIMUM WAGE ACT**

24 6.1. Plaintiff restates and realleges the allegations set forth above.

25 6.2. Some of the uncompensated time incurred by Plaintiff and class members may
26 have fallen in work weeks in which class members performed less than forty hours of work.

1 6.3. As to this uncompensated time, DirecTV has violated the Washington State
2 Minimum Wage Act, RCW 49.46.020, by failing to pay class members at least the minimum
3 wage for each hour worked.

4 6.4. As a result of DirecTV's acts and omissions, Plaintiff and class members have
5 been damaged in amounts as will be proven at trial.
6

7 **VII. SECOND CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY OVERTIME**
8 **WAGES IN VIOLATION OF THE WASHINGTON STATE MINIMUM WAGE ACT**

9 7.1. Plaintiff restates and realleges the allegations set forth above.

10 7.2. Some of the uncompensated time incurred by Plaintiff and class members may
11 have fallen in work weeks in which the drive time, office time, and/or other hours worked, if
12 counted, would have resulted in class members working more than forty hours in a work week
13 or would have resulted in additional hours that should have been compensated at an overtime
14 rate of pay.

15 7.3. As to this uncompensated time, DirecTV has violated the Washington State
16 Minimum Wage Act, RCW 49.46.130, by failing to pay class members one and one-half times
17 their regular rate of pay for the hours worked in excess of forty in a work week.

18 7.4. As a result of DirecTV's acts and omissions, class members have been
19 damaged in amounts as will be proven at trial.
20

21 **VIII. THIRD CAUSE OF ACTION - CLASSWIDE WILLFUL WITHHOLDING OF**
22 **WAGES IN VIOLATION OF RCW 49.52**

23 8.1. Plaintiff realleges the allegations set forth above.

24 8.2. By the foregoing, DirecTV's actions constitute willful withholding of wages
25 due in violation of RCW 49.52.050 and 070.
26

1 8.3. As a result of DirecTV's acts and omissions, class members have been
2 damaged in amounts as will be proven at trial.

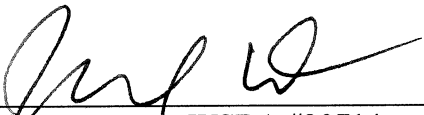
3 **IX. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff requests this Court enter an order granting him and class
5 members the following relief:

- 6 A. Damages for lost wages in amounts to be proven at trial;
7
8 B. Exemplary damages in amounts equal to double the wages due to class
9 members pursuant to RCW 49.52.070;
10 C. Attorneys' fees and costs pursuant to RCW 49.46.090, 49.48.030, and
11 49.52.070;
12 D. Prejudgment interest; and
13 E. Such other and further relief as the Court deems just and proper.
14

15 DATED this 11th day of May, 2017.

16 SCHROETER GOLDMARK & BENDER

17 
18 _____
19 Adam J. Berger, WSBA #20714
 Lindsay L. Halm, WSBA #37141
 Jamal N. Whitehead, WSBA #39818

20 *Attorneys for Plaintiff*