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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 FRANK GODFREY, on his own)
11 behalf and on behalf of all others)
12 similarly situated, ED TIPPEN, on his)
13 own behalf and on behalf of all others)
14 similarly situated, RON EMTER, on)
15 his own behalf and on behalf of all)
16 others similarly situated, BRYAN)
17 WILLIAMS, on his own behalf and)
18 on behalf of all others similarly)
19 situated,)
20 Plaintiffs,)
21 v.)
22 CHELAN COUNTY PUBLIC)
23 UTILITY DISTRICT,)
24 Defendant.)
25
26

NO. 2:06-CV-00332-JLQ

FIRST AMENDED CLASS ACTION
COMPLANT AND JURY DEMAND
FOR UNPAID WAGES AND
OVERTIME IN VIOLATION OF
FEDERAL AND STATE LAW

FIRST AMENDED CLASS ACTION COMPLAINT: 1

1 Plaintiffs allege:

2
3 **I. JURISDICTION**

4 1. The Court has jurisdiction over the Fair Labor Standards Act
5 (“FLSA”) claims pursuant to 28 U.S.C. §1331 and 29 U.S.C. § 216(b) and
6 supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

7
8 2. The Defendant is within the jurisdiction of this Court. The Defendant
9 conducts business in the state of Washington and operates in Chelan County,
10 Washington. Defendant has obtained the benefits of the laws of the state of
11 Washington and the Washington retail and labor markets.

12
13 3. The Defendant engages in substantial interstate commerce.

14 **II. PARTIES AND VENUE**

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16 4. Plaintiff Frank Godfrey is a resident of Chelan County, Washington
17 and an employee of the Chelan County Public Utilities District (“PUD”).

18
19 5. Plaintiff Ed Tippen is a resident of Chelan County, Washington and
20 an employee of the Chelan County PUD

21
22 6. Plaintiff Ron Emter is a resident of Chelan County, Washington and
23 an employee of the Chelan County PUD.

24
25 7. Plaintiff Bryan Williams is a resident of Chelan County, Washington
26 and an employee of the Chelan County PUD.

FIRST AMENDED CLASS ACTION COMPLAINT: 2

1 8. Defendant Chelan County PUD is a Washington municipal
2 corporation with its headquarters in Wenatchee, Washington and its principal place
3 of business in Chelan County, Washington.
4

5 9. Venue is proper in the Eastern District of Washington, under 28
6 U.S.C. §1391(a), because Plaintiffs reside in the Eastern District of Washington
7 and worked for the Defendant in the Eastern District of Washington, where the
8 violations alleged in this complaint occurred. In addition, the Defendant transacts
9 business in the Eastern District of Washington, and many of the specific acts, as
10 well as the course of conduct charged, occurred in the Eastern District of
11 Washington.
12

13 10. The claims of Plaintiffs and the Class members are individual claims
14 for violations of federal and Washington law described herein. These claims do
15 not unite or enforce a single title or right to which Plaintiffs and the Class have a
16 common and undivided interest.
17
18

19
20 **III. CLASS ACTION ALLEGATIONS**

21 11. Plaintiffs bring this case as a class action pursuant to Fed. R. Civ. P.
22 23 on behalf of the “Class” defined as follows:
23

24 All current and former employees of the Chelan County Public
25 Utilities District who worked unpaid shift-turnover time from July 18,
26 2000 through the date judgment is entered in this action.

1 12. Excluded from the Class is the Defendant, any entity in which
2 Defendant has a controlling interest or which has a controlling interest of
3 Defendant, and Defendant's legal representatives, assignees and successors. Also
4 excluded are the judge to whom this case is assigned and any member of the
5 judge's immediate family.
6

7
8 13. Plaintiffs believe there are more than sixty current and former Chelan
9 County PUD employees in the Class. Given Defendant's size and the systematic
10 nature of Defendant's failure to comply with federal and Washington employment
11 law and common law, the members of the Class are so numerous that joinder of all
12 members is impracticable.
13

14 14. Plaintiffs' claims are typical of the claims of the members of the Class
15 because Plaintiffs are employees who, like the members of the Class, sustained
16 damages arising out of the Defendant's scheme to deprive its employees of their
17 wages and overtime.
18

19 15. Plaintiffs will fairly and adequately protect the interests of the Class
20 members. Plaintiffs have retained counsel competent and experienced in complex
21 and class action litigation, including employment law.
22

23 16. Common questions of law and fact exist as to Plaintiffs and all
24 members of the Class and predominate over any questions solely affecting
25
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FIRST AMENDED CLASS ACTION COMPLAINT: 4

1 individual members of the Class. Among the questions of law and fact common to
2 Plaintiffs and the Class are:

- 3
- 4 a. Whether the Chelan County PUD engaged in a scheme to
5 deprive its employees of their wages and overtime pay;
- 6 b. Whether the Chelan County PUD failed to properly compensate
7 Plaintiffs and the Class in connection with the shift-turnover time that they
8 worked;
- 9
- 10 c. Whether the Defendant violated 29 U.S.C. § 207;
- 11 d. Whether the Defendant violated 29 U.S.C. § 206;
- 12 e. Whether the Defendant violated RCW 49.52.050;
- 13 f. Whether the Defendant violated RCW 49.48.010-.090;
- 14 g. Whether the Defendant violated RCW 49.46.090
- 15 h. Whether the Defendant violated RCW 49.46.130;
- 16 i. Whether the Defendant violated WAC 296-126-023; and
- 17 j. Whether the Defendant violated WAC 296-128-010.

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21 17. Class action treatment is superior to the alternatives for the fair and
22 efficient adjudication of the controversy. Such treatment will permit a large
23 number of similarly situated people to prosecute their modest, purely economic,
24 common claims in a single forum simultaneously, efficiently, and without the
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FIRST AMENDED CLASS ACTION COMPLAINT: 5

1 duplication of effort and expense that numerous individual actions would entail.
2 No difficulties are likely to be encountered in the management of this class action
3 that would preclude its maintenance as a class action, and no superior alternative
4 exists for the fair and efficient adjudication of this controversy. The Class is
5 readily identifiable from the Defendant's records.
6

7
8 18. Defendant has acted on grounds generally applicable to the entire
9 Class, thereby making final injunctive relief or corresponding declaratory relief
10 appropriate with respect to the Class as a whole. Prosecution of separate actions
11 by individual members of the Class would create the risk of inconsistent or varying
12 adjudications with respect to individual members of the Class that would establish
13 incompatible standards of conduct for the Defendant.
14

15
16 19. A class action is superior to other available methods for the fair and
17 efficient adjudication of this controversy since joinder of all members is
18 impracticable. The amounts at stake for many of the Class members, while
19 substantial to them, are not great enough to hire an attorney to prosecute individual
20 suits against the Defendant.
21

22 **IV. COLLECTIVE ACTION ALLEGATIONS**

23
24 20. Plaintiffs bring this action on behalf of themselves and all current and
25 former employees of the Chelan County Public Utilities District who worked
26

FIRST AMENDED CLASS ACTION COMPLAINT: 6

1 unpaid shift-turnover time from July 18, 2000 through the date of the final
2 disposition of this action (“the Collective Action Period”). This collective action is
3 authorized and instituted pursuant to 29 U.S.C. § 216(b). Plaintiffs and all such
4 similarly situated persons are hereinafter referred to jointly as “the Collective
5 Plaintiffs.”
6

7
8 21. The Collective Plaintiffs are similarly situated because they all
9 perform or performed similar shift-turnover duties and all are or were subject to
10 Defendant’s common policies and practices of willfully failing to compensate
11 employees for shift-turnover time.
12

13 **V. FACTUAL ALLEGATIONS**

14 22. Plaintiff Godfrey began his employment with the Chelan County PUD
15 in September 2000, and he has continued to work there to date. He works as a
16 Senior Operator in the Generation Department at the Rocky Reach Dam.
17

18 23. Plaintiff Tippen began his employment with the Chelan County PUD
19 in approximately 1985, and he has continued to work there to date. He works as a
20 Chief Operator.
21

22 24. Plaintiff Emter began his employment with the Chelan County PUD
23 in approximately 1986, and he has continued to work there to date. He works as a
24 Journey Hydro Mechanic.
25
26

1 25. Plaintiff Williams began his employment with the Chelan County
2 PUD in approximately 1987, and he has continued to work there to date. He works
3 as a Senior System Operator.
4

5 26. As part of the Plaintiffs' job duties, they regularly worked shift-
6 turnover time which was unpaid.
7

8 27. Shift-turnover time happens when one employee relieves another
9 employee from a shift. During the shift-turnover time, the two employees discuss
10 work problems, issues and the like at the time of the shift change.
11

12 28. Performing this shift-turnover involves, among other things,
13 discussing what happened on the prior shift and the status of equipment that the
14 relieving employee must be aware of to properly and safely perform his job.
15

16 29. The exchange of information that happens during shift turnover time
17 is necessary for the employees to fulfill their job duties and is part and parcel of
18 their job duties.
19

20 30. Employees are required to arrive early for their shifts or stay late after
21 their shifts have ended in order to complete the shift-turnover.
22

23 31. The unpaid shift-turnover time was worked with the full knowledge of
24 the Defendant. Employees were expected to work shift-turnover time in order to
25 properly perform their jobs.
26

FIRST AMENDED CLASS ACTION COMPLAINT: 8

1 39. By failing to pay its employees overtime for shift-turnover time, the
2 Defendant violated the FLSA.

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4 40. The Defendant's violation of the FLSA was willful because the
5 Defendant knew or showed reckless disregard for the matter of whether its conduct
6 was prohibited by the FLSA.

7
8 41. As a result of the unlawful acts of the Defendant, Plaintiffs and the
9 Class have been deprived of their overtime wages in amounts to be determined at
10 trial and, pursuant to 29 U.S.C. § 216(b), are entitled to recovery of twice such
11 amounts, including interest thereon, attorneys' fees and costs.
12

13 **VII. SECOND CAUSE OF ACTION**

14 *Violation of the Fair Labor Standards Act (FLSA),*
15 *29 U.S.C. §§ 201 -219,*
16 *Failure to Pay Minimum Wage*

17 42. Plaintiffs incorporate by reference all other paragraphs of this
18 Complaint as if fully set forth herein and further alleges as follows:
19

20 43. The FLSA requires employers to pay employees their wages for the
21 hours that they work.
22

23 44. By not paying its employees their wages for shift-turnover time, the
24 Defendant violated the FLSA.
25
26

FIRST AMENDED CLASS ACTION COMPLAINT: 10

1 45. The Defendant's violation of the FLSA was willful because it knew or
2 showed reckless disregard for the matter of whether its conduct was prohibited by
3 the FLSA.
4

5 46. As a result of the unlawful acts of the Defendant, Plaintiffs and the
6 Class have been deprived of their wages in amounts to be determined at trial, and
7 pursuant to 29 U.S.C. § 216(b) are entitled to recovery of twice such amounts,
8 including interest thereon, attorneys' fees and costs.
9

10 **VIII. THIRD CAUSE OF ACTION**

11 ***Willful Refusal to Pay Wages: RCW 49.52.050***

12
13 47. Plaintiffs incorporate the preceding paragraphs of this Complaint by
14 reference and further alleges as follows:

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16 48. RCW 49.52.050(2) provides that any employer who "willfully and
17 with intent to deprive the employee of any part of his wages, shall pay any
18 employee a lower wage than the wage such employer is obligated to pay such
19 employee by any statute, ordinance, or contract" shall be guilty of a misdemeanor.
20

21 49. RCW 49.52.070 provides that any employer who violates the
22 foregoing statute shall be liable in a civil action for twice the amount of wages
23 withheld, together with costs of suit and a reasonable attorney fee.
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