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\$350⁰⁰

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW RIPLEY, et al.

Plaintiffs,

FILED

10

1194

v.

MAR 10 2010

CIVIL ACTION NO. _____

SUNOCO, INC., et al.

By _____
Dep. Clerk

Defendants.

NOTICE OF REMOVAL

Please take notice that Defendants Sunoco, Inc., Michael G. McKee and Stephen J. Koczirka ("Sunoco" or "Defendants"), hereby remove this action from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania. Defendants file this Notice pursuant to 28 U.S.C. §§ 1331, 1332(d), 1441, 1446 and 1453. As grounds for removal, Defendants state as follows:

A. Defendants Have Satisfied The Procedural Requirements For Removal.

1. Plaintiffs Matthew Ripley, Richard J. Sim, Joseph M. Grosse, Anne Minor, Michael Olsen, Gabriel Swartz, Bradford Takacs, and James P. Savage, Jr. filed a Complaint on February 24, 2010 in the Court of the Common Pleas of Philadelphia County, Pennsylvania on behalf of themselves and other similarly situated individuals. The Complaint is captioned as February Term, 2010, No. 003326.

2. In the Complaint, Plaintiffs assert claims against Sunoco for (1) unpaid wages in violation of the Pennsylvania Minimum Wage Act ("PMWA"), 43 P.S. § 333.104(c) and (2) unjust enrichment. A copy of the Summons and Complaint is attached hereto as Exhibit A.

3. The Complaint was served on Defendant Sunoco, Inc. on February 25, 2010.

4. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is filed within thirty days of the date that Sunoco was first served with the Complaint. Defendants McKee and Koczirka join in removal.

5. Because this Court embraces the County and Court in which Plaintiff filed this case, this action is properly removed to this Court under 28 U.S.C. § 1441(a).

6. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk for the Court of Common Pleas of Philadelphia County on this date, and a copy of this Notice of Removal is being served on all parties to this law suit.

7. A copy of all process pleadings and orders served upon Defendants accompany this Notice of Removal as required by 28 U.S.C. § 1446(a).

B. Removal Is Proper Because This Court Has Federal Question Subject Matter Jurisdiction.

8. Plaintiffs' Complaint seeks damages on behalf of a class of employees defined to include all current and former operations and maintenance employees employed by Sunoco at its refinery located at 3144 West Passyunk Avenue, Philadelphia, Pennsylvania (the "Refinery") for a period from February 24, 2007 to the present.

9. Plaintiffs assert that they have not received all of the pay and overtime compensation to which they are entitled by virtue of Sunoco's failure to compensate them for work performed including but not limited to work performed prior to the start of Plaintiffs' regularly scheduled work shifts and after conclusion of the shift, including but not limited to work performed "donning and doffing" personal protective equipment. *See* Complaint, ¶ 3.

10. The Plaintiffs and the proposed class members are all members of a collective bargaining unit represented by Local Union 10-1 of the United Steelworkers (the "Union").

11. Removal of this case is proper pursuant to 28 U.S.C. § 1331 because it presents a federal question under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185.

12. Section 301 of the Labor Management Relations Act is a statute which has been determined by the Supreme Court to have complete pre-emptive force over state law contract claims which require interpretation or application of a collective bargaining agreement. Any such state law claims are completely pre-empted. *Lingle v. Norge Division of Magic Chef, Inc.*, 486 U.S. 399, 405-66 (1988); *Franchise Tax Board v. Construction Laborers Vacation Trust for Southern Cal.*, 463 U.S. 1, 24 (1983).

13. As a matter of federal law, removal of a case based upon federal question jurisdiction is proper where at least one of a plaintiff's claims is pre-empted by Section 301. *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 209 (1988).

14. Under the doctrine of completion pre-emption, "if a federal cause of action completely pre-empted a state cause of action, any complaint that comes within the scope of the federal cause of action necessarily arises under federal law." *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

15. In this case, the collective bargaining agreements (current and former) between Sunoco and the Union contain detailed provisions governing the duties performed by bargaining unit employees which must be compensated.

16. Further, the custom and practice of Sunoco pursuant to the terms of the collective bargaining agreements will determine Plaintiffs' entitlement to compensation for time spent "donning and doffing" personal protective equipment. *Turner v. City of Philadelphia*, 262 F.3d 222 (3d. Cir. 2001).

17. Accordingly, Plaintiffs state law claims cannot be resolved without interpreting the collective bargaining agreements. Plaintiffs' common law unjust enrichment claim, as well as Plaintiffs' statutory minimum wage claim necessarily require this Court to interpret the collective bargaining agreements because the obligation to provide compensation which the Plaintiffs' claim have been breached are encompassed by the collective bargaining agreements.

18. Because of the complete pre-emption doctrine, this case is properly removable to this Court pursuant to 28 U.S.C. § 1441.

C. Removal Is Proper Because This Court Has Diversity Subject Matter Jurisdiction.

19. Removal of this action is also proper pursuant to the terms of the Class Action Fairness Act ("CAFA"), codified at 28 U.S.C. § 1332(d), which provides "District Courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which . . . (A) any member of a class of plaintiffs is a citizen of a state different from any defendant." For purposes of determining whether the matter in controversy is met, CAFA provides that the "claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs." 28 U.S.C. § 1332(d)(6).

20. This Court has original jurisdiction over this matter because (1) at least some of the members of the proposed class have a different citizenship from Sunoco; (2) there are 100 or more members in the proposed class; and (3) the claims of the proposed class members based on allegations of Plaintiffs exceed the sum or value of \$5,000,000 in the aggregate, exclusive of interest and costs.

21. Plaintiff Bradford Takacs identifies himself as citizen of the State of Maryland.

22. Plaintiff Michael Olsen identifies himself as a citizen of the State of New Jersey.

23. Sunoco is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and with its principal place of business in Pennsylvania.

24. Accordingly, the requirement of diversity jurisdiction is met.

25. Further, Plaintiffs propose to represent a class of more than 600 employees employed at the Refinery.

26. Greater than one-third of the bargaining unit employees at the Refinery are citizens of states other than Pennsylvania. Accordingly, this diversity between the proposed class members and Sunoco establishes this Court's jurisdiction pursuant to CAFA.

27. Plaintiffs' Complaint does not specifically allege the amount in controversy.

28. Sunoco denies that Plaintiff or the putative class members are entitled to any relief, and any facts which it presents regarding the amount in controversy shall not in any way be deemed admissions of either liability or damages. However, the amount in controversy exceeds \$5,000,000 based upon Plaintiff's allegations concerning the number of members in the proposed class, the amount of time for which damages are claimed, and the type of damages and other relief claimed.

29. Plaintiffs' Complaint asserts that Sunoco has failed to properly compensate a large number of employees for work allegedly performed by the proposed class members over a period of time in excess of three years.

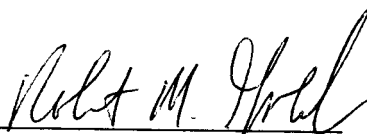
30. Plaintiffs' Complaint seeks as a remedy unpaid wages, unpaid overtime at the rate of time and a half for hours worked over forty hours per week, liquidated damages and special damages.

31. Plaintiffs' Complaint also seeks an award of reasonable attorneys fees and costs, which as a matter of law can be considered by this Court in determining the whether the amount in controversy exceeds \$5,000,000.

32. By filing this Notice of Removal, Defendants do not waive any jurisdictional objections or any of their defenses to liability and damages available to them under the law.

WHEREFORE, for the reasons stated herein, Defendants remove this action to this Court.

GREENBERG TRAURIG, LLP



Date: March 18, 2010

Robert M. Goldich, Atty. I.D. No. 25559
Kelly Dobbs Bunting, Atty. I.D. No. 88492
2700 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Robert M. Goldich, hereby certify that on this 18th day of March 2010, I caused to be served the foregoing Notice of Removal by U.S. Mail, First Class, postage pre-paid, upon the following counsel of record:

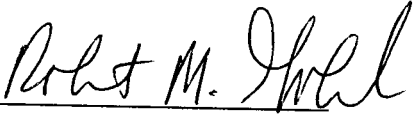
Eric L. Young, Esq.
Egan Young, Attorneys at Law
526 Township Line Road, Suite 100
Blue Bell, PA 19422

Michael W. McGurrin, Esq.
Galfand Berger, LLP
1835 Market Street, Suite 2710
Philadelphia, PA 19103

Attorneys for Plaintiffs

FILED

MAR 18 2010
By MIC...
K
Dep. Clerk


Robert M. Goldich

Via Courier Best Legal Service 2/25/10 1:30pm

Court of Common Pleas of Philadelphia County
Trial Division

Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

FEBRUARY 2010

003326

Filing Number: 1002039226

PLAINTIFF'S NAME
MATTHEW RIPLEY

DEFENDANT'S NAME
SUNOCO, INC.

PLAINTIFF'S ADDRESS
117 CAMERON DRIVE
WALLINGFORD PA 19086

DEFENDANT'S ADDRESS
1735 MARKET STREET STE LL
PHILADELPHIA PA 19103

PLAINTIFF'S NAME
JAMES P. SAVAGE JR

DEFENDANT'S NAME
MICHAEL G. MCKEE

PLAINTIFF'S ADDRESS
3532 DAWES COURT
MARCUS HOOK PA 19061

DEFENDANT'S ADDRESS
1735 MARKET STREET STE LL
PHILADELPHIA PA 19103

PLAINTIFF'S NAME
BRADFORD TAKACS

DEFENDANT'S NAME
STEPHEN J. KOCZIRKA

PLAINTIFF'S ADDRESS
123 BROWNFIELD LOOP
ELKTON MD 21921

DEFENDANT'S ADDRESS
1735 MARKET STREET STE LL
PHILADELPHIA PA 19103

TOTAL NUMBER OF PLAINTIFFS
8

TOTAL NUMBER OF DEFENDANTS
3

COMMENCEMENT OF ACTION

- Complaint
- Writ of Summons
- Petition Action
- Transfer From Other Jurisdictions
- Notice of Appeal

AMOUNT IN CONTROVERSY

- \$50,000.00 or less
- More than \$50,000.00

COURT PROGRAMS

- Arbitration
- Jury
- Non-Jury
- Other: CLASS ACTION

- Mass Tort
- Savings Action
- Petition

- Commerce
- Minor Court Appeal
- Statutory Appeals

- Settlement
- Minors
- W/D/Survival

CASE TYPE AND CODE

C1 - CLASS ACTION

STATUTORY BASIS FOR CAUSE OF ACTION

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

**FILED
PRO PROTHY**

FEB 24 2010

M. TIERNEY

IS CASE SUBJECT TO COORDINATION ORDER?

YES NO

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: MATTHEW RIPLEY, JAMES P SAVAGE JR, BRADFORD TAKACS, GABRIEL SWARTZ,
Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY

ERIC L. YOUNG

ADDRESS

EGAN YOUNG
526 TOWNSHIP LINE ROAD
SUITE 100
BLUE BELL PA 19422

PHONE NUMBER

(215) 367-5151

FAX NUMBER

(215) 367-5143

E-MAIL ADDRESS

eyoung@eganyoung.com

SUPREME COURT IDENTIFICATION NO.

84109

DATE SUBMITTED

Wednesday, February 24, 2010, 04:50 pm

SIGNATURE OF FILING ATTORNEY OR PARTY

ERIC YOUNG

FINAL COPY (Approved by the Prothonotary Clerk)

COMPLETE LIST OF PLAINTIFFS:

1. RICHARD J. SIM
841 12TH AVENUE
PROSPECT PARK PA 19076
2. JOSEPH M. GROSSE
19 E. LANGHORNE AVENUE
HAVERTOWN PA 19083
3. ANNE MINOR
30 E. WASHINGTON AVENUE
CLIFTON HEIGHTS PA 19018
4. MICHAEL OLSEN
273 BLACKWOOD AVENUE
FRANKLINVILLE NJ 08322
5. GABRIEL SWARTZ
4633 WORTH STREET
PHILADELPHIA PA 19124
6. BRADFORD TAKACS
123 BROWNFIELD LOOP
ELKTON MD 21921
7. JAMES P. SAVAGE JR
3532 DAWES COURT
MARCUS HOOK PA 19061
8. MATTHEW RIPLEY
117 CAMERON DRIVE
WALLINGFORD PA 19086

Plaintiffs,

v.

SUNOCO, INC., MICHAEL G.
McKEE, and STEPHEN J. KOCZIRKA,
1735 Market Street Ste LL
Philadelphia, PA 19103-7583,

Defendants.

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with this court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197**

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**Asociacion De Licenciados
De Filadelfia
Servicio De Referencia E
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333**

- a. Clearing a security check point at the beginning of each work shift;
 - b. Engaged off-site and off the clock while “on-call”;
 - c. Donning and doffing personal protective equipment;
 - d. Obtaining and storing work tools;
 - e. Traveling to and from assigned work sites;
 - f. Preparing and cleaning work equipment; and
 - g. Engaged in required shift change briefings with co-workers.
4. All of the uncompensated work time as set forth herein takes place before and after paid time.

II. JURISDICTION AND VENUE

5. Venue is proper in this county under Rules 1006 and 2179(a)(2) of the Pennsylvania Rules of Civil Procedure because Defendant Sunoco regularly conducts business throughout the Commonwealth of Pennsylvania in general and within Philadelphia County specifically.
6. The Defendant is within the jurisdiction of this Court. Sunoco’s corporate headquarters are located in Philadelphia, Pennsylvania and the unpaid work activities at issue in this case take place in Philadelphia County.

III. PARTIES

7. Plaintiff Matthew Ripley is a current operations employee at Sunoco’s Philadelphia, Pennsylvania refinery. Mr. Ripley presently resides at 117 Cameron Drive, Wallingford, PA 19086.

8. Plaintiff James P. Savage, Jr., is a current operations employee at Sunoco's Philadelphia, Pennsylvania refinery. Mr. Savage presently resides at 3532 Dawes Court, Marcus Hook, PA 19061.
9. Plaintiff Bradford Takacs is a current maintenance employee at Sunoco's Philadelphia, Pennsylvania refinery. Mr. Takacs presently resides at 123 Brownfield Loop, Elkton, MD 21921.
10. Plaintiff Gabriel Swartz is a current operations employee at Sunoco's Philadelphia, Pennsylvania refinery. Mr. Swartz presently resides at 4633 Worth Street, Philadelphia, PA 19124.
11. Plaintiff Michael Olsen is a current operations employee at Sunoco's Philadelphia, Pennsylvania refinery. Mr. Olsen presently resides at 273 Blackwood Avenue, Franklinville, NJ 08322.
12. Plaintiff Anne Minor is a current operations employee at Sunoco's Philadelphia, Pennsylvania refinery. Ms. Minor presently resides at 30 East Washington Avenue, Clifton Heights, PA 19018.
13. Plaintiff Joseph M. Grosse is a current operations employee at Sunoco's Philadelphia, Pennsylvania refinery. Mr. Grosse presently resides at 19 E. Langhorne Avenue, Havertown, PA 19083.
14. Plaintiff Richard J. Sim is a former operations employee at Sunoco's Philadelphia, Pennsylvania refinery. Mr. Sim presently resides at 841 12th Avenue, Prospect Park, PA 19076.

15. Plaintiffs bring this action on behalf of themselves and all other similarly situated current and former operations and maintenance workers employed by Sunoco at its refinery located at 3144 W. Passyunk Avenue, Philadelphia, Pennsylvania from February 24, 2007 to the present.

16. Defendant Sunoco is a Pennsylvania corporation that is registered to do business in Pennsylvania and has its corporate headquarters in Pennsylvania.

17. Defendant Sunoco owns and operates the refinery at issue here where it processes crude oil into products such as gasoline, diesel, jet fuel and propane.

18. Defendant Michael G. McKee was the Refinery Manager at Defendant's Philadelphia, Pennsylvania refinery and, at times relevant hereto, was aware of and had responsibility for the unlawful pay and timekeeping practices complained of herein.

19. Defendant Stephen J. Koczirka was the Operations Manager at Defendant's Philadelphia, Pennsylvania refinery and, at times relevant hereto, was aware of and had responsibility for the unlawful pay and timekeeping practices complained of herein.

IV. CLASS ACTION ALLEGATIONS

20. The Named Plaintiffs are individuals who, within the applicable period of limitations prior to the commencement of this action, were employed by Sunoco in Philadelphia, Pennsylvania. Plaintiffs bring this case as a class action pursuant to Pennsylvania Rules of Civil Procedure 1701, et seq., on behalf of a Class consisting of: current and former hourly operations and maintenance employees of Sunoco, Inc., at its facility located at 3144 W. Passyunk Avenue, Philadelphia, Pennsylvania. (the "Class").

21. Plaintiffs believe that there are at least 600 present and former operations and maintenance employees in the Class during the relevant Class period of February 24, 2007 to the present ("Class period").

22. Given the number of Defendant Sunoco's operations and maintenance employees and the systematic nature of Sunoco's failure to comply with Pennsylvania statutory law and common law, the members of the Class are so numerous that joinder of all members is impractical.

23. The Named Plaintiffs' claims are typical of the claims of the Class members because they were hourly operations and/or maintenance employees who, like the Class members, sustained damages arising out of Defendant's unlawful compensation system as described in more detail herein.

24. Plaintiffs will fairly and adequately protect the interests of the Class members. Plaintiffs have retained counsel competent and experienced in complex class action and wage and hour litigation.

25. Common questions of law and fact exist as to all Class members and predominate over any questions solely affecting individual Class members. Among the questions of law and fact common to Plaintiffs and the Class are:

- a. Whether the work performed by Named Plaintiffs and the Class is included in the type of work Sunoco employed Named Plaintiffs and the Class to perform;
- b. Whether the work performed by Named Plaintiffs and the Class is compensable under Pennsylvania law;

- c. Whether Defendant has engaged in a pattern and/or practice in Pennsylvania of forcing, coercing, and/or permitting Named Plaintiffs and the Class to perform work for Defendant's benefit which was not compensated;
 - d. Whether Defendant failed to pay Named Plaintiffs and the Class the applicable overtime rate for all hours worked in excess of 40 hours per week;
 - e. Whether Defendant has engaged in a pattern and/or practice of disciplining or retaliating against Named Plaintiffs and the Class for not performing certain work without being compensated;
 - f. Whether Defendant has failed to keep true and accurate time records for all hours worked by its employees as required by Defendant's policies and the Pennsylvania Minimum Wage Act of 1968, 43 P.S. § 333.108;
 - g. Whether Defendant failed to pay Named Plaintiffs and the Class for all of the work Defendant required them to perform;
 - h. Whether Defendant violated the Pennsylvania Minimum Wage Act of 1968, 43 P.S. § 333.104;
 - i. Whether Defendant violated the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1 et seq.; and
 - j. The nature and extent of class-wide injury and the measure of damages for the injury.
26. Class action treatment is superior to the alternatives for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently,

and without the duplication of effort and expense that numerous individual actions would entail. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action, and no superior alternative exists for the fair and efficient adjudication of this controversy. The Class is readily identifiable from the Defendant's own records.

27. Prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendant.

28. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impractical. Furthermore, the amounts at stake for many of the Class members, while substantial, are not great enough to enable them to maintain separate suits against Defendant.

29. Without a class action, Defendant will likely retain the benefit of its wrongdoing and will continue a course of action, which will result in further damages to Named Plaintiffs and the Class. Plaintiffs envision no difficulty in the management of this action as a class action.

V. PRELIMINARY FACTUAL ALLEGATIONS

30. Defendant Sunoco owns and operates the refinery at issue here where it processes crude oil into products such as gasoline, diesel, jet fuel and propane. The complained of unlawful compensation system at issue in this Complaint has affected Defendant's present and former operations and maintenance employees at its Philadelphia, Pennsylvania location.

31. Pursuant to government regulations and Sunoco's own internal policies and procedures, Named Plaintiffs and Class members are required to wear personal protective equipment ("PPE")

for protection in a hazardous work environment. PPE includes, *inter alia*, Nomex flame retardant suits, hard hats, heavy gloves, safety glasses, and steel-toed boots.

32. Under Sunoco's wage compensation system, Sunoco pays Named Plaintiffs and Class members *only* during the time that they are engaged at their assigned unit, work location and/or position before and/or after they:

- a. Clear a security check point at the beginning of each work shift;
- b. Don and doff PPE;
- c. Obtain and/or store work tools;
- d. Travel to and from assigned work sites;
- e. Prepare and clean work equipment; and
- f. Engage in required shift change briefings with co-workers.

33. In addition, Sunoco requires Named Plaintiffs and Class Members at certain times to be "on-call" while off-site and off the clock, but does not pay for any of this required work time.

34. As such, Sunoco, as a matter of policy and practice, does not pay its operations and maintenance employees for all required pre-operations and post-operations activities that are necessary and integral to their overall employment responsibilities.

35. As a consequence of the compensation system utilized by Defendant Sunoco, Named Plaintiffs and Class members are not paid for the time it takes to engage in all required work activities as set forth herein.

36. As a result of Sunoco's compensation system, and other practices and policies followed by Defendant, Named Plaintiffs and Class members are not paid for all of the time which they

work presently and they have not been paid for all of the time they have worked for several years.

37. Likewise, Named Plaintiffs and Class Members have not been paid overtime, as required by the Pennsylvania Minimum Wage Act, 43 P.S. §333 *et seq.*, for all time worked over forty hours per week during the Class period.

38. Named Plaintiffs and all Class members are similarly situated individuals who worked at and/or continue to work at Defendant's refinery in Philadelphia, Pennsylvania and who were and/or continue to be deprived of their lawful wages and/or overtime pay under Pennsylvania law in the same manner.

39. The facts and circumstances relating to Sunoco's compensation system vis-à-vis operations time and employment related activities prior to paid time and after paid time present common questions of law and fact pursuant to Pennsylvania Rule of Civil Procedure 1708.

40. The claims of the Named Plaintiffs are typical of the claims of approximately 600 similarly situated current and former employees. The Named Plaintiffs are adequate representatives of those similarly situated employees in that the Named Plaintiffs' claims are identical to the claims of the similarly situated employees and former employees.

41. The Defendant's failure to pay Plaintiffs and Class members their lawful wages was and is willful. Defendant Sunoco knew or should have known that its conduct was unlawful and/or showed reckless disregard for the matter of whether its above-described conduct was prohibited by law.

42. Despite its knowledge that time spent by Named Plaintiffs and Class members, as described above, was compensable time under Pennsylvania law, Defendant Sunoco has taken no steps to compensate workers at its Philadelphia, Pennsylvania facility for this time.

VI. CAUSES OF ACTION

COUNT I

**VIOLATION OF THE PENNSYLVANIA MINIMUM WAGE ACT OF 1968
43 P.S. § 333 et seq.**

43. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth herein.

44. Upon information and belief, the Class period for this cause of action is at least February 24, 2007 to the present.

45. The Pennsylvania Minimum Wage Act of 1968, § 333.104(c), provides in relevant part that: "Employees shall be paid for overtime not less than one and one-half times the employee's regular rate for all hours in excess of 40 hours in a workweek."

46. By their actions alleged above, Defendant Sunoco violated the provisions of the Pennsylvania Minimum Wage Act of 1968, 43 P.S. § 333 *et seq.*

47. As a result of Defendant's unlawful acts, Plaintiff and class members have been deprived of compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, together with costs and attorneys' fees.

48. Plaintiffs and class members worked many hours without having been paid by Defendant on a weekly basis. Had that work been recorded as paid time, Plaintiff and class members would have worked over forty hours a week and been entitled to be paid one and a half times their regular hourly wages for all time worked in excess of forty hours per week.

COUNT II

UNJUST ENRICHMENT

49. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth herein.

50. The Class period for this cause of action is February 24, 2007, to the present.

51. At all relevant times hereto, Defendant devised and implemented a plan to increase its earnings and profits by fostering a scheme of securing uncompensated work from Named Plaintiffs and Class members.

52. Contrary to all good faith and fair dealing, Defendant instructed and encouraged its managers and supervisors to induce Named Plaintiffs and Class members, by actual or threatened retaliation and/or promises, to perform work before and after paid time for which no compensation has been given.

53. By reason of having secured the work and efforts of Named Plaintiffs and Class members without compensation, Defendant enjoyed reduced over-head with respect to its refinery in Philadelphia, Pennsylvania and therefore realized additional earnings and profits to its own benefit and to the detriment of Named Plaintiffs and Class members, and that Defendant retained and continues to retain such benefits contrary to the fundamental principles of justice, equity, and good conscience.

54. Accordingly, Named Plaintiffs and Class members are entitled to judgment in an amount equal to the benefits unjustly retained by Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for judgment against Defendant as follows:

1. That this action may proceed as a class action pursuant to Pennsylvania Rule of Civil Procedure 1708;
2. On Count I (Violation of the Pennsylvania Minimum Wage Act of 1968):
 - a. An award to Plaintiffs and Class members of damages in the amount of unpaid overtime compensation, liquidated damages, including interest thereon, and penalties subject to proof;
 - b. An award to Plaintiffs and Class members of reasonable attorneys' fees and costs pursuant to the Pennsylvania Minimum Wage Act;
3. On Count II (Unjust Enrichment)
 - a. For general damages according to proof;
 - b. For special damages according to proof;
4. Awarding Plaintiffs and Class members attorneys' fees and costs of the suit to the extent permitted by law; and
5. All other relief as this Court may deem proper.

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury of 12 persons for all issues so triable.

Respectfully submitted,

EGAN YOUNG, Attorneys-at-Law


ERIC L. YOUNG

GERARD P. EGAN

BRANDON J. LAURIA

526 Township Line Road, Suite 100

Blue Bell, PA 19422

Phone: (215) 367-5151

Facsimile: (215) 367-5143

GALFAND BERGER, LLP
MICHAEL W. McGURRIN
1835 Market Street, Suite 2710
Philadelphia, PA 19103
Phone: (215) 665-1600
Facsimile: (215) 564-2662

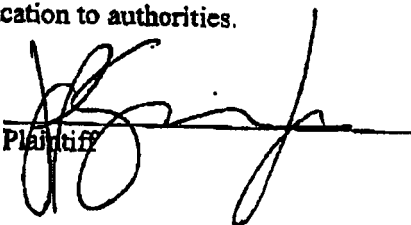
Attorneys for Plaintiffs

DATED: February 24, 2010

VERIFICATION

I, JAMES P. SWANE, JR. hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


Plaintiff

DATED: 18 FEB 10

VERIFICATION

I, Bradford Takacs, hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Bradford Takacs
Plaintiff

DATED: 2-18-2010

VERIFICATION

I, Gabe Swartz, hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Gabe Swartz
Plaintiff

DATED: 02/23/10

VERIFICATION

I, Michael J. Olsen, hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

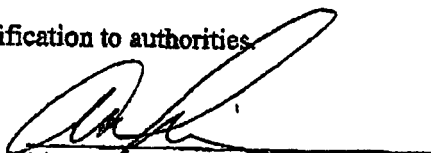
Michael J. Olsen
Plaintiff

DATED: 2-18-2010

VERIFICATION

I, Anne Minor hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


Plaintiff

DATED: 2-19-2010

VERIFICATION

I, Toshi Sun, hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



Plaintiff

DATED: 2/18/10

VERIFICATION

I, Joseph M. Gross hereby state:

1. I am the plaintiff in this action;
2. I verify that the statements made in the Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said Complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Joseph M. Gross
Plaintiff

DATED: 2-20-2010