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

ROBERT S. BRUNER and CECIL G.  
MARKLEY, individually and on behalf of  
others similarly situated,

Plaintiffs,

v.

DAVIS WIRE CORPORATION,

Defendant.

CLASS ACTION

No.

COMPLAINT

**I. NATURE OF ACTION**

1.1 This is a class action for unpaid "off-the-clock" work time and unprovided statutory rest and meal breaks brought by two current employees ("class representatives") on behalf of themselves and others similarly situated who worked for defendant during the past three years, and hereafter.

1.2 This class of employees was not paid for periods of time during which they were authorized and known by defendant to be on duty at the defendant's workplace or at defendant's direction and during which they were requested, suffered, permitted and/or allowed to perform

1 work for the defendant. As a result, they have been unlawfully deprived of the wages to which  
2 they were entitled pursuant to Washington state law.

3 1.3 This class of employees was not provided with the thirty-minute meal periods to  
4 which the employees were entitled under RCW 49.12.091 and WAC 296-126-092, because the  
5 employees were required to work more than five consecutive hours without a meal period and  
6 were required to work three or more hours longer than a normal work day without being allowed  
7 at least one thirty-minute meal period prior to or during the overtime period.  
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9 1.4 This class of employees was not provided with the paid ten-minute rest periods to  
10 which the employees were entitled under RCW 49.12.091 and WAC 296-126-092(4), because  
11 they were not allowed a paid rest period for each four hours of working time, the nature of the  
12 work does not allow them to take intermittent rest periods equivalent to ten minutes for each four  
13 hours worked, and the employer required employees to work more than three hours without a  
14 rest period.  
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## 16 II. JURISDICTION AND VENUE

17 2.1 The Superior Court of Washington has jurisdiction of plaintiffs' claims pursuant  
18 to RCW 2.08.010 and Superior Court Civil Rule ("CR") 23.

19 2.2 Venue in King County is appropriate pursuant to RCW 4.12.025.  
20

## 21 III. PARTIES

22 3.1 Plaintiff Robert S. Bruner is a resident of the City of Lakewood in Pierce County,  
23 Washington. He is currently employed by the defendant, and is an employee for purposes of the  
24 Washington State Minimum Wage Act ("MWA"), RCW 49.46, and the Industrial Welfare Act  
25 ("IWA"), RCW 49.12.  
26

1           3.2     Plaintiff Cecil G. Markley is a resident of the City of Puyallup in Pierce County,  
2 Washington. He employed by the defendant during the three years preceding the date of this  
3 Complaint and during that time period was an employee for purposes of the MWA and the IWA.

4           3.3     Defendant Davis Wire Corporation, (“Davis Wire” or “employer”) is a  
5 corporation which does business in the State of Washington and in King County. Davis Wire is  
6 an employer for purposes of the MWA and the IWA.  
7

8 **IV. CLASS ACTION ALLEGATIONS**

9           4.1     The class representatives seek to represent all production, maintenance and  
10 shipping employees at the Davis Wire plant located at 19411 80th Avenue South in Kent,  
11 Washington who performed work for Davis Wire at that location during at least a portion of the  
12 three years prior to the service and/or filing of this complaint, and thereafter.

13           4.2     The action is properly maintainable under CR 23(a) and (b)(3).

14           4.3     The class described in paragraph 4.1 is sufficiently numerous such that joinder of  
15 all of them is impractical, as required by CR 23(a)(1).  
16

17           4.4     Pursuant to CR 23(a)(2), there are common questions of law and fact including,  
18 but not limited to, a) whether the defendant failed to pay class members for time periods when  
19 they were authorized and known by defendant to be on duty at the defendant’s workplace or at  
20 the defendant’s direction and during which they were requested, suffered, permitted and/or  
21 allowed to perform work for the defendant; b) whether the defendant failed to provide and  
22 compensate employees for the meal and rest breaks to which they were entitled under  
23 Washington wage and hour law; and c) whether the defendant failed to pay class members one  
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1 and one-half times their regular rate of pay for all hours worked in excess of forty in their work  
2 weeks, in violation of RCW 49.46.130.

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

6 4.6 The class representatives and their counsel will fairly and adequately protect the  
7 interests of the class as required by CR 23(a)(4).

8 4.7 Pursuant to CR 23(b)(3), class certification is appropriate here because common  
9 questions of law or fact common to members of the class predominate over any questions  
10 affecting only individual members, and because a class action is superior to other available  
11 methods for the fair and efficient adjudication of the controversy.  
12

### 13 **V. FACTUAL ALLEGATIONS**

14 5.1 Defendant is engaged in the manufacture of wire, including galvanized and  
15 reinforcement wire and specialty wires.

16 5.2 During the time period relevant to this complaint, plaintiffs and class members  
17 worked for defendant as production, maintenance and shipping employees.

18 5.3 During the time period relevant to this complaint, plaintiffs and class members  
19 routinely "clocked in" anywhere from one to sixty minutes or more prior to the commencement  
20 of their scheduled shift. During this period of time, plaintiffs and class members were  
21 authorized and known by defendant to be on duty at the defendant's workplace and were  
22 requested, suffered, permitted and/or allowed to perform work for the defendant. Plaintiffs and  
23 class members were not paid for this work.  
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1           5.4     During the time period relevant to this complaint, plaintiffs and class members  
2 routinely “clocked out” later than the end of their scheduled or extended shifts. During the  
3 period of time between the end of plaintiffs’ and class members’ shifts and the time plaintiffs  
4 and class members clocked out, plaintiffs and class members were authorized and known by  
5 defendant to be on duty at the defendant’s workplace and were requested, suffered, permitted  
6 and/or allowed to perform work for the defendant. Plaintiffs and class members were not paid  
7 for this work.  
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9           5.5     During the time period relevant to this complaint, plaintiffs and class members  
10 working more than five hours of work were not allowed meal periods of at least thirty minutes.  
11 Plaintiffs and class members working three or more hours longer than a normal work day were  
12 not allowed at least one thirty-minute meal period prior to or during the overtime period. Davis  
13 Wire did not provide plaintiffs and class members meal periods either scheduled or unscheduled,  
14 interrupted or uninterrupted.  
15

16           5.6     Plaintiffs and class members were required to perform active work during the  
17 entirety of their shifts, without respite, and were provided no opportunity to engage in personal  
18 activities, to rest or relax or to experience relief from work or exertion. From the  
19 commencement of plaintiffs’ and class members’ scheduled shifts until the time that they  
20 clocked out at the end of their shifts, plaintiffs and class members were always on duty, always  
21 performing work and always acting in the interest of the employer. When plaintiffs and class  
22 members ate or drank during work time, they did so while they were on duty on the employer’s  
23 premises and while actively performing work activities. Plaintiffs and class members did not  
24 waive their required meal periods.  
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1           5.7     During the time period relevant to this complaint, plaintiffs and class members  
2 were not provided with paid ten-minute rest periods, as required by WAC 296-126-092(4) and  
3 RCW 49.12.091, even though the nature of the work performed by them did and does not allow  
4 them to take intermittent rest periods equivalent to ten minutes for each four hours worked.  
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6 **VI.   FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY FOR TIME**  
7 **SPENT PERFORMING WORK FOR THE DEFENDANT PRIOR TO THE**  
8 **COMMENCEMENT OF REGULARLY SCHEDULED SHIFTS, IN VIOLATION**  
9 **OF THE WASHINGTON STATE MINIMUM WAGE ACT, RCW 49.46, AND**  
10 **RCW 49.52**

11           6.1     Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1 through  
12 5.7 above.

13           6.2     Defendant’s failure to pay plaintiffs and class members for the time they spent  
14 prior to the commencement of their regularly scheduled shifts constitutes a violation of RCW  
15 49.46.020, RCW 49.46.090(1), and RCW 49.52.050(2).

16           6.3     In failing to pay wages to their employees as alleged above, defendant acted  
17 willfully and with the intent of depriving its employees of these wages.

18           6.4     As a result of defendant’s acts and omissions, plaintiffs and class members have  
19 been damaged in amounts not yet calculated.

20 **VII.   SECOND CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY FOR TIME**  
21 **SPENT PERFORMING WORK FOR THE DEFENDANT SUBSEQUENT TO**  
22 **THE COMPLETION OF REGULARLY SCHEDULED AND EXTENDED**  
23 **SHIFTS, IN VIOLATION OF RCW 49.46 AND RCW 49.52**

24           7.1     Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1 through  
25 5.7 above.  
26

1           7.2     Defendant’s failure to pay plaintiffs and class members for the time they spent  
2 subsequent to the completion of their regularly scheduled shifts constitutes a violation of RCW  
3 49.46.020, RCW 49.46.090(1), and RCW 49.52.050(2).

4           7.3     In failing to pay wages to their employees as alleged above, defendant acted  
5 willfully and with the intent of depriving its employees of these wages.  
6

7           7.4     As a result of defendant’s acts and omissions, plaintiffs and class members have  
8 been damaged in amounts not yet calculated.

9           **VIII. THIRD CAUSE OF ACTION – CLASSWIDE FAILURE TO PROVIDE MEAL**  
10           **PERIODS IN VIOLATION OF RCW 49.12.091 AND WAC 296-126-092**

11           8.1     Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1 through  
12 5.7 above.

13           8.2     Defendant violated WAC 296-126-092(1) through (3) and RCW 49.12.091 by  
14 failing to provide this class of employees with thirty-minute meal periods as required by WAC  
15 296-126-092(1) through (3).

16           8.3     The employees were required to work more than five consecutive hours without a  
17 meal period and were required to work three or more hours longer than a normal work day  
18 without being allowed at least one thirty-minute meal period prior to or during the overtime  
19 period.  
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21           8.4     In failing to provide meal periods as alleged above, defendant benefited from the  
22 labor of these employees without compensating the employees for their labor, and in so doing  
23 defendant acted willfully and with the intent of depriving its employees of the wages they were  
24 due.  
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1           8.5     As a result of defendant's acts and omissions, plaintiffs and class members have  
2 been damaged in amounts not yet calculated.

3 **IX.     FOURTH CAUSE OF ACTION – CLASSWIDE FAILURE TO PROVIDE PAID**  
4 **REST PERIODS IN VIOLATION OF RCW 49.12.091 AND WAC 296-126-092(4)**

5           9.1     Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1 through  
6 5.7 above.

7           9.2     Defendant violated WAC 296-126-092(4) and RCW 49.12.091 by failing to  
8 provide this class of employees with the paid ten-minute rest periods as required by WAC 296-  
9 126-092(4), even though the nature of the work performed by these employees did not allow  
10 them to take intermittent rest periods equivalent to ten minutes for each four hours worked.

11           9.3     In failing to provide paid ten-minute rest periods as alleged above, defendant  
12 benefited from the labor of these employees without compensating the employees for their labor,  
13 and in so doing defendant acted willfully and with the intent of depriving its employees of the  
14 wages they were due.

15           9.4     As a result of defendant's acts and omissions, plaintiffs and class members have  
16 been damaged in amounts not yet calculated.

17 **X.     FIFTH CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY OVERTIME**  
18 **WAGES IN VIOLATION OF RCW 49.46.130**

19           10.1     Plaintiffs restate and reallege the allegations set forth in paragraphs 1.1 through  
20 5.7 above.

21           10.2     Defendant's failure to pay class members one and one-half times their regular rate  
22 of pay for hours worked in excess of forty in their work weeks constitutes a violation of RCW  
23 49.46.130.  
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