

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DAVID CZOPEK, CHRISTOPHER
KNOTT and DAVID EASLICK Individually,
and on behalf of All Others Similarly
Situated Who Consent to Their Inclusion
in a Collective Action;

Plaintiffs.

v.

CASE NO.

TBC RETAIL GROUP, INC. d/b/a
TIRE KINGDOM,

Defendants.

COLLECTIVE ACTION COMPLAINT & DEMAND FOR JURY TRIAL

Plaintiffs, DAVID CZOPEK, CHRISTOPHER KNOTT and DAVID EASLICK (hereinafter referred to as “Plaintiffs”) individually, and on behalf of all others similarly situated who consent to their inclusion in this collective action, sues the above captioned Defendant, TBC RETAIL GROUP, INC. d/b/a TIRE KINGDOM (hereinafter referred to as “Defendant” or “Tire Kingdom”) pursuant to violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (the “FLSA”), and states as follows:

INTRODUCTION

1. The Fair Labor Standards Act is our nation’s foremost wage law. The overtime requirements of the Fair Labor Standards Act (“FLSA”) were meant to apply financial pressure to spread employment to avoid the extra wage and to assure workers additional pay to compensate them for the burden of a workweek beyond the hours fixed in the act. See *In re*

Novartis Wage & Hour Litig. 611 F.3d 141, 150 (2d Cir. N.Y. 2010). It requires minimum wage and overtime pay for certain non-exempt employees. 29 U.S.C. § 213.

2. Plaintiffs bring this action for violation of federal wage and hour laws by and on behalf of all similarly situated current and former employees of Defendants.
3. Pursuant to policy and plan, Defendants violated the FLSA by: (a) requiring hourly employees to work off-the-clock; (b) shaving employees' time records; (c) failing to properly calculate overtime wages; (d) improperly using debit cards to pay wages; (e) improperly classifying mechanics as exempt from overtime compensation; and (f) failing to pay proper minimum wages to tire technicians.
4. Accordingly, Plaintiffs and similarly situated current and former employees were not compensated at a rate of one and one-half times their regular rate of pay for all hours worked over forty (40) in a work week.
5. Plaintiffs also bring corresponding state law claims for the recovery of unpaid wages for all shaved hours and hours worked off-the-clock pursuant to Florida's Unpaid Wages Statute, Fla. Stat. 448.08.
6. An employee's overtime rate is calculated by multiplying the employee's regular rate of pay by 1.5 for purposes of overtime computation, an employee's regular rate of pay includes any bonus received.
7. Defendant's failure to pay Plaintiffs, and similarly situated hourly employees overtime compensation at a rate not less than one and one-half times their regular rate of pay for all hours of work performed beyond the forty (40) hour workweek is a violation of the FLSA, in particular 29 U.S.C. § 207.

8. Defendant's improper classification of Plaintiffs and similarly situated mechanics as exempt from overtime compensation is a violation of the FLSA, in particular 29 U.S.C. § 207.
9. Defendants failure to pay Plaintiffs and similarly situated tire technicians the minimum wage required by the FLSA is a violation of the FLSA, in particular 29 U.S.C. §206.
10. Plaintiffs bring this collective action pursuant to 29 U.S.C. 216(b) on behalf of all hourly employees, who are or were employed by Defendant as service managers, sales associates, tire technicians, mechanics and/or all other hourly employees who perform substantially the same job functions as the job titles listed above, to recover unpaid wages and unpaid overtime under the Fair Labor Standards Act.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action, pursuant to 28 U.S.C. §§ 1331 and 1337 and 29 U.S.C. §§ 216(b) and 217 because this action involves a federal question under the Fair Labor Standards Act.
12. This Court has original and personal jurisdiction over this action because the Defendant is engaged in business within the State of Florida, and the actions complained of occurred in Florida.
13. Venue is appropriate in the Tampa Division of the Middle District of Florida pursuant to 28 U.S.C. 1391(b) because the Defendant owns and operates a facility in Tampa, Florida and the unlawful conduct occurred within the Tampa Division of this Court.

THE PARTIES

The Representative Plaintiffs

14. **DAVID CZOPEK ("Czopek")**. At all times relevant to this action, the Representative Plaintiff, David Czopek resided in the State of Florida.

15. Plaintiff, David Czopek, was employed by Defendants from April 2011 through the present as an Hourly Retail Manager (“Service Manager”) at many of Defendant’s retail store locations, including but not limited to the Dale Mabry; Henderson Blvd.; North Palmetto; Pinellas Park; Lutz; Wesley Chapel; Holiday; Plant City and Highway 301 branch locations.
16. Czopek was paid an hourly rate of \$12.00 per hour in addition to non-discretionary incentive awards including but not limited to SPIFFs, sales commissions and monthly bonuses.
17. Czopek regularly worked 60 to 80 hours per week.
18. Czopek was subjected to time shaving, and was regularly required to work off-the-clock and through lunches without additional compensation.
19. For purposes of this collective action and the proposed classes, Czopek hereby consents in writing to be a party to this action pursuant to 29 U.S.C. § 216(b).
20. At all times relevant to this action, Czopek, and all other members of the proposed FLSA collective action, were employees of Tire Kingdom within the meaning of 29 U.S.C. § 203(e)(1).
21. **CHRISTOPHER KNOTT (“Knott”)**. At all times relevant to this action, the Representative Plaintiff, Knott resided in the State of Florida.
22. Plaintiff, Knott, was employed by Defendants from September 2011 through August 2013 as a Flat Rate Technician (a.k.a. “Mechanic”) at Defendant’s Plant City store branch.
23. Like similarly situated Mechanics, Knott was paid a flat rate of \$23.00 per book hour of labor pursuant to the Chilton Labor Time Guides in addition to commissions on flat rate items.
24. Tire Kingdom misclassified Mechanics as exempt employees and failed or refused to pay Knott any premium compensation for any hours in excess of forty (40) during any given week.
25. Knott was subjected to time shaving, and was regularly required to work off-the-clock and through lunches without additional compensation.

26. For purposes of this collective action and the proposed classes, Knott hereby consents in writing to be a party to this action pursuant to 29 U.S.C. § 216(b).

27. At all times relevant to this action, Knott, and all other members of the proposed FLSA collective action, were employees of Tire Kingdom within the meaning of 29 U.S.C. § 203(e)(1).

28. **DAVID EASLICK (“Easlick”)**. At all times relevant to this action, the Representative Plaintiff, Easlick resided in the State of Florida.

29. Easlick, was employed by Defendants from May 2012 through December 2012 as a Tire Technician (a.k.a “Tire Tech”). Easlick was then promoted to an hourly sales position (“Sales Associate”) until September 3, 2013.

30. As a Tire Tech, Easlick was paid \$6.40 per hour, plus flat rate payments for certain activities (“SPIFFS”). Czopek was paid an hourly rate of \$12.00 per hour in addition to non-discretionary incentive awards including but not limited to SPIFFs, sales commissions and monthly bonuses.

31. As a Sales Associate, Easlick was paid approximately \$8.00 per hour plus commissions on the sales of service to Tire Kingdom’s customers.

32. At all times during his employment Easlick was subjected to time shaving, and was regularly required to work off-the-clock and through lunches without additional compensation.

33. For purposes of this collective action and the proposed classes, Czopek hereby consents in writing to be a party to this action pursuant to 29 U.S.C. § 216(b).

34. At all times relevant to this action, Easlick, and all other members of the proposed FLSA collective action, were employees of Tire Kingdom within the meaning of 29 U.S.C. § 203(e)(1).

Defendant

35. Defendant, TBC RETAIL GROUP, INC. d/b/a TIRE KINGDOM, is a for profit Florida corporation with its principal place of business located at 4280 Professional Center Dr., Suite 400, Palm Beach Gardens, Florida 33410. Its registered agent is Corporation Service Company, 1201 Hays Street, Tallahassee, Florida 32301-2525.

36. Tire Kingdom operates a chain of retail automotive service and repair centers throughout Florida, North Carolina, South Carolina, Louisiana, Georgia, Vermont and New Hampshire.

37. Upon information and belief, Defendant is an enterprise engaged in interstate commerce with gross sales in excess of \$500,000.00.

38. Defendant is an “employer” of Plaintiffs, and similarly situated employees, within the meaning of the FLSA, 29 U.S.C. § 203 and F.S. 448.101(3).

GENERAL ALLEGATIONS

39. Plaintiffs bring this collective action for Defendants’ FLSA violations including but not limited the following: (a) requiring hourly employees to work off-the-clock; (b) shaving employees’ time records; (c) failing to properly calculate overtime wages; (d) improperly taking deductions from employee’s wages through the use of debit cards; (e) improperly classifying mechanics as exempt from overtime compensation; and (f) failing to pay proper minimum wage and overtime compensation to tire technicians.

40. Plaintiffs also bring corresponding state law claims for the recovery of unpaid wages for all shaved hours or hours worked off-the-clock pursuant to Florida’s Unpaid Wages Statute, Fla. Stat. 448.08.

41. Despite their stated policies, Tire Kingdom knowingly required Plaintiffs and other similarly situated hourly employees to work off the clock during lunch breaks.

42. Despite their stated policies, Tire Kingdom knowingly required Plaintiffs and other similarly situated hourly employees to work off the clock before and after their scheduled shift time.

43. Despite their stated policies, Tire Kingdom shaved Plaintiffs' and other similarly situated hourly employees' time records to reduce payroll costs.

44. Tire Kingdom failed and/or refused to pay Plaintiffs' and similarly situated employees' regular rate for any and all hours shaved or worked off-the-clock.

45. Defendants failed to include the payment of non-discretionary incentive payments in the calculation of Plaintiffs' and similarly situated hourly employees' overtime compensation.

46. Tire Kingdom failed to comply with the FLSA by impermissibly paying Plaintiffs' and similarly situated employees' wages (including minimum wages and overtime compensation) via a debit card ("Pay Card"). The Pay Cards charged fees to access the money, had restrictions on how much money could be withdrawn and contained restrictions on withdrawing the remaining balance below a certain amount.

47. Tire Kingdom paid Mechanics on a modified flat rate and unlawfully failed or refused to pay mechanics the proper overtime rate for any and all hours worked in excess of forty (40) during any given workweek – and improperly misclassified mechanics as exempt from overtime pay requirements.

48. Tire Kingdom failed to comply with the FLSA with respect to both the minimum wage requirements and overtime requirements paid to tire technicians. Tire Kingdom paid its tire technicians an hourly rate of \$6.40, below the federally required minimum wage (\$7.25), and failed to calculate tire technicians' overtime rate properly (ie. overtime was paid at 1.5 times \$6.40 or \$9.60 when the federal minimum wage overtime rate was \$10.88).

49. Similarly, Tire Kingdom violated the FLSA minimum wage requirements by requiring tire technicians to supply their own tools for use in the performance of their jobs.

50. Plaintiff brings this FLSA collective action on behalf of all hourly employees of Defendants (ie. Service Managers, Sales Associates, Mechanics and Tire Techs)

51. The FLSA provides that, with certain exceptions, employers must pay employees overtime of at least one and one-half times their regular rate of pay for any hours over forty worked in a week. 29 U.S.C. S 207(a)(1). The Act exempts certain employees from the overtime requirements. However, an "employer who claims an exemption from the FLSA has the burden of showing that the exemption applies" *see Donovan v. Nekton, Inc.*, 703 F.2d 1148, 1151 (9th Cir. 1983).

52. Although the FLSA provides for certain exemptions to the mandates of paying overtime compensation, no exemption applies in the instant matter.

53. Unless proven to be exempt from the protection of overtime laws, all employees are entitled to full and proper payment of their minimum wages and premium overtime pay for work in excess of forty (40) hours per week.

54. Further evidence reflecting the precise number of off-the-clock and overtime hours worked by Plaintiff and every other member of the putative classes (as defined below), as well as the applicable compensation rates, is in the possession of the Defendant. If these records are unavailable, Plaintiff and members of the Classes may establish the hours they worked solely by their testimony, and the burden of overcoming such testimony shifts to the employer. *See Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946).

COLLECTIVE ACTION ALLEGATIONS

55. Plaintiff brings this action as a collective action pursuant to the Fair Labor Standards Act §216(b), on behalf of himself and the following Classes of person:

- a. **The “Hourly Employee Class.”** All hourly employees, including Service Managers, Sales Associates, Mechanics and Tire Techs who are or were employed by Defendant within the past three years preceding this lawsuit who were not paid at a rate of one and one-half times their regular rate of pay for all hours worked over forty (40) in a work week and elect to opt-in to this action pursuant to FLSA, 29 U.S.C. § 216(b).
- b. **The “Mechanic Class.”** All Flat Rate Technicians who are or were employed by Defendant within the past three years preceding this lawsuit who were unlawfully misclassified as exempt from the overtime pay requirements of the FLSA who were not paid at a rate of one and one-half times their regular rate of pay for all hours worked over forty (40) in a work week and elect to opt-in to this action pursuant to FLSA, 29 U.S.C. § 216(b).
- c. **The “Tire Tech Class.”** All Tire Technicians who are or were employed by Defendant within the past three years preceding this lawsuit who were paid an hourly rate of less than the federal minimum wage and who were denied proper overtime compensation for all hours worked over forty (40) in a work week and elect to opt-in to this action pursuant to FLSA, 29 U.S.C. § 216(b).

56. The claims of the Representative Plaintiffs are typical of the claims of the members of the Classes.

57. The number of proposed members of the Classes is so numerous that a joinder of all members is impractical through the precise number of class individuals is presently in the sole possession of the Defendant.

58. Plaintiffs will fairly and adequately protect the interests of the proposed members of the Collective Classes and has retained counsel that is experienced and competent in class/collective

actions along with employment litigation. There is no conflict between Plaintiffs and the members of the Classes.

59. Common questions of law and fact exist as to the proposed Collective Classes that predominate over any questions only affecting them individually and include, but are not limited to, the following:

- a. Whether Defendants required members of the Hourly Class to work off-the clock;
- b. Whether Defendants shaved the time of members of the Hourly Class;
- c. Whether Defendants failed to properly include non-discretionary incentive awards in the computation of overtime paid to members of the Hourly Class;
- d. Whether Defendants use of Pay Cards in lieu of paychecks to members of the Hourly Class violated the FLSA;
- e. Whether Defendants unlawfully misclassified members of the Mechanic Class as exempt from overtime requirements;
- f. Whether Defendants failed to pay proper minimum and overtime pay to members of the Tire Tech Class;
- g. Whether Defendant's policies of failing to pay workers the applicable federal minimum wage and proper overtime compensation has been willfully instituted or with reckless disregard of the law; AND
- h. The nature and extent of class-wide injury and the measure of damages for those injuries.

60. A collective action suit, such as the instant one, is superior to other available means for fair and efficient adjudication of the controversy for a number of reasons including, but not limited to, the following: this case challenges the policy of a large employer and many employees may be reluctant to bring claims individually for fear of retaliation; some members of the Classes may have only worked for the Defendant for a short period of time and their individual damages would not be substantial enough to be worth the cost and effort of bringing individual claims; many members of the Classes will not have the resources to bring their claims

individually; and it would be highly inefficient to require each employee affected by the practices challenged herein to bring his or her own individual claim.

COUNT I
WORKING OFF-THE-CLOCK
On Behalf Of The Hourly Employee Class

61. Plaintiffs re-alleges and incorporates paragraphs one (1) through sixty (60) *supra*, as if fully set out herein.

62. Tire Kingdom has a practice and custom of requiring/coercing Plaintiff and members of the Hourly Employee Class to work off-the-clock during lunch breaks.

63. Tire Kingdom management was aware that Plaintiffs and members of the Hourly Employee Class worked off-the-clock, and failed to ensure that Plaintiffs and members of the Hourly Employee Class were properly paid for all hours worked.

64. Tire Kingdom senior management reviewed the time records and work records (ie. estimates, work orders and invoices) generated by Plaintiffs and members of the Hourly Employee Class, and failed to ensure that Plaintiffs and members of the Hourly Employee Class were paid for all hours worked.

65. In order to save payroll costs, Tire Kingdom instituted a practice and custom of shaving Plaintiffs' and members of the Hourly Employee Class' time records, for which Plaintiffs and members of the Hourly Employee Class were not paid.

66. As a result of Tire Kingdom's failure to compensate Plaintiffs and members of the Hourly Employee Class for hours worked off-the-clock, Plaintiffs and members of the Hourly Employee Class were denied proper overtime payment for all hours worked in excess of forty (40) during any given week, in violation of 29 U.S.C. §207.

67. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

68. Due to the Defendant's FLSA violations, Plaintiffs and the members of the Hourly Employee Class have suffered damages, and are entitled to recover from the Defendant the unpaid overtime compensation, and an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. §216(b).

COUNT II
FAILURE TO PROPERLY CALCULATE/PAY OVERTIME COMPENSATION
On Behalf Of The Hourly Employee Class

69. Plaintiffs re-alleges and incorporates paragraphs one (1) through sixty (60) *supra*, as if fully set out herein.

70. Tire Kingdom failed or refused to include non-discretionary incentive payments including but not limited to bonuses, commissions and SPIFFs as compensation paid in the determination of Plaintiffs' and members of the Hourly Employee Class' regular rate for the purposes of computing overtime compensation.¹

71. Accordingly, Tire Kingdom failed to pay Plaintiffs and members of the Hourly Employee Class the full and proper overtime wages at a rate of time and one-half their regular rate of pay for any and all hours worked in excess of forty (40) during any given week.

72. The Defendant's conduct in failing to pay its employees lawful overtime compensation at a rate of time and one-half their regular rate of pay for any and all hours worked in excess of forty (40) during any given week as set forth above, violates the FLSA, 29 U.S.C. § 201, *et seq.*, and particularly § 207.

¹ See 29 C.F.R. §778.208 generally.

73. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

74. Due to the Defendant's FLSA violations, Plaintiffs and the members of the Hourly Employee Class have suffered damages, and are entitled to recover from the Defendant the unpaid overtime compensation, and an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. §216(b).

COUNT III
USE OF PAY CARDS VIOLATES THE FLSA
On Behalf Of The Hourly Employee Class

75. Plaintiffs re-alleges and incorporates paragraphs one (1) through sixty (60) , as if fully set out herein.

76. Tire Kingdom used debit cards (a.k.a. Pay Cards) to pay Plaintiffs and members of the Hourly Employee Class some or all of their wages.

77. The Pay Cards had associated fees, surcharges and restrictions on the use of the funds, such as fees to access the money; restrictions on how much money could be withdrawn and restrictions on withdrawing the remaining balance below a certain amount.

78. As a result of the use of Pay Cards in lieu of paychecks, Plaintiffs and members of the Hourly Employee Class were not paid the entirety of their minimum wages and overtime compensation pursuant to 29 U.S.C. §§206 and 207.

79. The use of Pay Cards in lieu of paychecks violates 29 C.F.R. § 531.27 which requires that wages be paid via negotiable instruments without additional fees, surcharges or penalties.²

² Payment by use of debit cards which include fees and charges violates 29 C.F.R. § 531.27 which states in pertinent part " (a) Standing alone, sections 6 and 7 of the Act require payments of the prescribed wages, including overtime compensation, in cash or negotiable instrument payable at par." Because the debit card includes fees, penalties and surcharges, it is not a negotiable instrument payable at par.

80. The use of Pay Cards in lieu of paychecks violates 29 C.F.R. § 531.35 which prohibits kick-backs to the employer.³

81. Upon information and belief, upon payment of the Pay Cards, Tire Kingdom still maintained possession, custody and control over the funds contained in the Pay Card, and thus “floated” the funds for the benefit of Tire Kingdom.

82. Upon information and belief, the use of Pay Cards indirectly benefitted Tire Kingdom by benefitting the Pay Card issuing company with whom Tire Kingdom maintained a close, mutually beneficial relationship.

83. Accordingly, the Defendant’s conduct in using Pay Cards in lieu of pay checks violates the FLSA, 29 U.S.C. § 201, *et seq.*, and particularly the minimum wage and overtime requirements of § 206 and § 207.

84. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

85. Due to the Defendant’s FLSA violations, Plaintiffs and the members of the Hourly Employee Class have suffered damages, and are entitled to recover from the Defendant the unpaid compensation, and an additional amount equal as liquidated damages, reasonable attorneys’ fees, and costs and disbursements of this action, pursuant to 29 U.S.C. §216(b).

³ 29 C.F.R. § 531.35 states in pertinent part that “wages cannot be considered to have been paid by the employer and received by the employee unless they are paid finally and unconditionally or “free and clear.” The wage requirements of the Act will not be met where the employee “kicks-back” directly or indirectly to the employer or to another person for the employer’s benefit the whole or part of the wage delivered to the employee. This is true whether the “kick-back” is made in cash or in other than cash.”

COUNT IV
MISCLASSIFICATION OF MECHANIC CLASS
On Behalf Of The MECHANIC CLASS

86. Plaintiffs re-alleges and incorporates paragraphs one (1) through sixty (60) *supra* as if fully set out herein.

87. Tire Kingdom paid Plaintiffs and members of the Mechanic Class a pre-determined flat hourly rate for each qualifying job, and an additional commission on certain items.

88. Tire Kingdom improperly classified Plaintiffs and members of the Mechanic Class as exempt from overtime pay pursuant to 29 U.S.C. §207(i).

89. Tire Kingdom failed to pay Plaintiffs and members of the Mechanic Class a regular rate in excess of one and one half time the minimum wage; and failed to ensure that in excess of one-half of Plaintiffs' and members of the Mechanic Class' compensation for a representative period (not less than one month) represents commission on goods or services.

90. Accordingly, the Defendants unlawfully misclassified Plaintiffs and members of the Mechanic Class as exempt from the overtime requirements of the FLSA § 207.

91. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

92. Due to the Defendant's FLSA violations, Plaintiffs and the members of the Mechanic Class have suffered damages, and are entitled to recover from the Defendant the unpaid overtime compensation, and an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. §216(b).

COUNT V
VIOLATION OF MINIMUM WAGES AND OVERTIME REQUIREMENTS
On Behalf Of The TIRE TECH CLASS

93. Plaintiffs re-alleges and incorporates paragraphs one (1) through sixty (60) *supra*, as if fully set out herein.

94. Tire Kingdom paid Plaintiffs and members of the Tire Tech Class an hourly rate less than the applicable minimum wage under the FLSA in addition to SPIFFs.

95. Tire Kingdom paid non-discretionary SPIFFs (a flat rate dollar amount) to Plaintiffs and members of the Tire Tech Class based upon the sale of a certain item or services.

96. Tire Kingdom failed to ensure that Plaintiffs and members of the Tire Tech Class earned compensation each week to equal the minimum wage requirements of the FLSA (as applicable).

97. Tire Kingdom failed to properly calculate Plaintiffs' and members of the Tire Tech Class' overtime compensation – thus reducing the overtime rate to below the overtime rate for minimum wage.

98. Accordingly, the Defendants have failed to pay Plaintiffs and members of the Tire Tech Class the full and proper minimum wage and overtime compensation pursuant to the FLSA §§ 206 and 207.

99. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

100. Due to the Defendant's FLSA violations, Plaintiffs and the members of the Tire Tech Class have suffered damages, and are entitled to recover from the Defendant the unpaid minimum wages and overtime compensation, an additional amount equal as liquidated damages,

reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. §216(b).

COUNT VI
UNPAID WAGES PURSUANT TO §448.08
On Behalf of The Hourly Employee Class

101. Plaintiffs re-alleges and incorporates paragraphs one (1) through sixty (60) *supra*, as if fully set out herein.

102. Tire Kingdom required Plaintiffs and similarly situated members of the Hourly Employee Class to work off-the-clock through lunch, and shaved workers' hours to reduce their payroll costs.

103. Plaintiffs and members of the Hourly Employee Class were not paid any wages for these off-the-clock hours.

104. Plaintiffs and members of the Hourly Employee Class are entitled to payment of their regular rate for all hours worked off-the-clock pursuant to Fla. Stat. §448.08.

105. Due to the Defendant's violations of Fla. Stat. §448.08, Plaintiffs are entitled to recover from the Defendant their unpaid wages for time spent working off-the-clock, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to Fla. Stat. §448.08.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for:

- a. An order designating this action as a collective action and issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated individuals with instructions to permit them to assert timely FLSA claims in this action by filing individual Consents to Sue pursuant to §216(b), and that this notice be sent to all past and present employees of the Defendant at any time during the three year period immediately preceding the

- filing of this suit, through and including the date of this Court's issuance of the Court Supervised Notice.
- b. An order appointing Plaintiff Czopek and his counsel to represent the Hourly Employee Class.
 - c. An order appointing Plaintiff Knott and his counsel to represent the Mechanic Class.
 - d. An order appointing Plaintiff Easlick and his counsel to represent the Tire Tech Class.
 - e. That the Court finds Defendant in violation of the FLSA and issue a judgment in Plaintiffs' favor.
 - f. That the Court find that the Defendant's violations of the FLSA were and are willful and in bad faith.
 - g. That the Court award the Plaintiffs, and all similarly situated employees of the Hourly Employee Class compensation for all the previous hours worked over forty (40) hours that they did not receive at least one and one-half times the regular rate of compensation for, in any given week during the past three years; AND liquidated damages of an equal amount of the minimum compensation; in addition to penalties and interest on said award pursuant to § 216 of the FLSA.
 - h. That the Court award the Plaintiffs, and all similarly situated employees of the Hourly Employee Class compensation for damages, losses and fees incurred by way of the Defendants' use of Pay Cards AND liquidated damages of an equal amount of the minimum compensation; in addition to penalties and interest on said award pursuant to § 216 of the FLSA.
 - i. That the Court award the Plaintiffs, and all similarly situated employees of the Mechanic Class compensation for all the previous hours worked over forty (40) hours

that they did not receive at least one and one-half times the regular rate of compensation for, in any given week during the past three years; AND liquidated damages of an equal amount of the minimum compensation; in addition to penalties and interest on said award pursuant to § 216 of the FLSA.

- j. That the Court award the Plaintiffs, and all similarly situated employees of the Tire Tech Class compensation for all the previous hours worked that they did not receive at least minimum wage for any given week during the past three years and compensation for all the previous hours worked over forty (40) hours that they did not receive at least one and one-half times the regular rate of compensation for, in any given week during the past three years; AND liquidated damages of an equal amount of the minimum compensation; in addition to penalties and interest on said award pursuant to § 216 of the FLSA.
- k. That the Court award Plaintiffs and similarly situated members of the Hourly Employee Class unpaid wages in the amount of their regular rate for all hours suffered or permitted to work off-the-clock.
- l. An order awarding attorneys' fees and costs pursuant to § 216 of the FLSA.
- m. An order awarding attorneys' fees and costs pursuant to Fla. Stat. §448.08.
- n. That the Court award Plaintiffs a collective action representative incentive fee for Plaintiffs' efforts and time dedicated to bringing justice through this action and the extra efforts they put in for leading this litigation;

AND
- o. That the Court award any other legal and equitable relief as this Court may deem appropriate and the law allows.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by this Complaint and on all other issues so triable.

Dated this Tuesday, March 18, 2014 and respectfully submitted by:

/s/ Benjamin L. Williams

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