

Trash Company Hit With Wage-And-Hour Suit

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Tuesday, April 17, 2007 --- A lawsuit seeking both class and collective action status has accused trash collection, disposal and recycling outfit Allied Waste Industries Inc. of violating federal and state laws by not paying employees for all hours worked.

The lawsuit, filed Monday in Ohio, named Scottsdale, Ariz.-based Allied Waste Industries Inc. and Browning-Ferris Industries of Ohio Inc. as defendants.

The lawsuit was brought on behalf of a prospective class made up of at least 150 garbage truck drivers employed by Allied who allegedly were not paid for all the hours they worked.

The plaintiff named in the complaint, David McGhee, worked for the defendants between May 2000 and October 2006. At least four other prospective plaintiffs have filed court papers to join the suit.

The defendants ran afoul of both the Fair Labor Standards Act and the Ohio Minimum Wage Act, according to the plaintiffs, who asked the court to exercise supplemental jurisdiction on their state law claims.

The plaintiffs also asked the court to allow the case to proceed as a collective action with respect to their federal claims, and as a class action with respect to their claims under Ohio law.

One suit asserting both state and federal claims was preferable to separate lawsuits at the state and federal levels, because if two suits were filed, one would likely be stayed pending the other's outcome, said Cathleen M. Bolek, an attorney for the plaintiffs in the suit.

"We live in a society where people work to live, and I think it's outrageous that companies, knowing that they have the bargaining power that they have, skirt the law to pinch pennies at their workers' expense," Bolek said Tuesday.

McGhee and similarly situated workers routinely had to work off-the-clock, and the defendants knew this, the lawsuit alleged.

"Defendants were in a position to see plaintiff and his fellow drivers perform this work, there was too much work performed for the regular working hours allotted, there were repeated and numerous occasions of extra work being performed, and there was a pattern or practice of employer acquiescence to

the work,” the complaint said.

In addition, defendants didn’t pay the plaintiffs for the time they spent putting on and removing uniforms and protective gear at work, activities that were an integral and indispensable part of the workday, according to the complaint.

The defendants also allegedly denied the workers proper meal periods, even though they automatically deducted a pay to cover lunch breaks, the complaint said.

The lawsuit asked the court for permanent injunctions barring the defendants from violating the Fair Labor Standards Act and the Ohio Minimum Wage Act, and an award of actual damages for unpaid compensation along with liquidated damages.

A spokesperson for Allied Waste Industries could not be immediately reached for comment.

The plaintiffs in this suit are represented by Cohen Rosenthal & Kramer LLP and the Lazzaro Law Firm LLC.

The case is David McGhee v. Allied Waste Industries Inc. et al., case number 07-111, in the U.S. District Court for the Northern District of Ohio.