

IN THE UNITED STATES DISTRICT COURT  
 FOR THE MIDDLE DISTRICT OF GEORGIA  
 ATHENS DIVISION

	:	
FREIDA BROWN, JODY HALL, and JANET MOON,	:	
on behalf of themselves and similarly situated employees,	:	COLLECTIVE ACTION
	:	CASE NO. _____
Plaintiffs,	:	
	:	COLLECTIVE ACTION COMPLAINT
v.	:	FOR VIOLATIONS OF FAIR LABOR
	:	STANDARDS ACT
	:	
PILGRIM’S PRIDE CORPORATION,	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	

**COLLECTIVE ACTION COMPLAINT**

**SUMMARY OF COLLECTIVE ACTION CLAIMS**

Plaintiffs Freida Brown, Jody Hall, and Janet Moon (hereinafter collectively referred to as “Plaintiffs”), on behalf of themselves and similarly situated employees, bring this collective action lawsuit, pursuant to 29 U.S.C. § 216(b), against Defendant Pilgrim’s Pride Corporation (hereinafter referred to as “Defendant”), seeking to recover for Defendant’s violations of the Fair Labor Standards Act of 1938 (“FLSA”), 29 U.S.C. §§ 201, *et seq.* They seek relief from Defendant which is engaged in the business of chicken production, processing and packaging for violations of Defendant’s statutory obligation to pay for all work performed during the work day, and, where such work hours exceeded 40 hours per week, for mandated overtime premium for all work performed by employees that are covered by the FLSA. Specifically, Plaintiffs allege that Defendant has willfully engaged in the practice of inducing, permitting, or requiring its employees to work “off-the-clock” in excess of 40 hours per week without recording the time for all work performed or compensating them with appropriate payment for such work. The

following allegations are based on personal knowledge as to Plaintiffs' own conduct and are made on information and belief as to the acts of others.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this action pursuant to § 16(b) of the FLSA, 29 U.S.C. § 216(b) and 28 U.S.C. § 1331 and 1337.

2. Venue in this Court is proper pursuant to 28 U.S.C. § 1391 because Defendant operates a chicken preparation and packaging plant in Elberton, Georgia, and thus conducts business and can be found in the Middle District of Georgia.

### **PARTIES**

3. Plaintiffs bring this action on behalf of themselves and all similarly situated current and former employees of Pilgrim's Pride Corporation located at the Elberton Plant in Elberton, Georgia who have held non-exempt positions at any time since three years prior to the filing of this Complaint ("the proposed class").

4. Plaintiff Freida Brown's address is 1668 Wanatchee Creek Road, Elberton, GA 30635. Plaintiff Brown has worked for Defendant at a chicken preparation and packaging plant located in Elberton, Georgia for at least the last three years, and is a non-exempt employee within the meaning of the FLSA.

5. Plaintiff Jody Hall's address is 1401 Jody Hall Drive, Elberton, GA 30636. Plaintiff Hall has worked for Defendant at a chicken preparation and packaging plant located in Elberton, Georgia for at least the last three years, and is a non-exempt employee within the meaning of the FLSA.

6. Plaintiff Janet Moon's address is 562 Almond Street, Elberton, GA 30635. Plaintiff Moon has worked for Defendant at a chicken preparation and packaging plant located in

Elberton, Georgia for at least the last three years, and is a non-exempt employee within the meaning of the FLSA.

7. Defendant Pilgrim's Pride ("Defendant") is a corporation headquartered in Pittsburgh, Texas and is engaged in the business of chicken production, processing, and packaging. Defendant maintains chicken factories nationwide and Mexico, and its annual sales are in the billions of dollars. At all times relevant to this Complaint, Defendant was regularly engaged in interstate commerce and was an employer within the meaning of the FLSA, 29 U.S.C. §§ 206-207. Pilgrim's Pride is registered to do business in the State of Georgia, and has hundreds of employees at the Elberton, Georgia Plant who are not exempt from the provisions of the FLSA.

**GENERAL ALLEGATIONS OF DEFENDANT'S COMMON BUSINESS PRACTICES**

8. Plaintiffs Brown, Hall, and Moon are employees that hold different job titles at the Elberton Plant. Although they hold different job titles, the Defendant's preparation and packaging operation, general plant conditions, and wage practices are similar, if not identical.

9. Plaintiffs and other non-exempt employees at the Elberton Plant work in various positions or 'lines.' Each line performs a discrete task in the preparation and the packaging of the chicken for shipping.

10. Regardless of the line or position, the Plaintiffs and other members of the proposed class must keep pace with a fast-moving conveyor belt, performing their assigned tasks on the assembly line, and don any number of clothing items to carry out this work as is required by the Defendant and explained more thoroughly below.

11. Defendant engages in the business of chicken production, processing and packaging throughout the United States, including in the state of Georgia at the Elberton Plant which is involved in chicken preparation and packaging.

12. Defendant owns and operates a chicken preparation and packaging plant located in Elberton, Georgia.

13. Defendant's Elberton Plant employs hundreds of workers who perform manual labor associated with Defendant's chicken preparation and packaging operations. These individuals are engaged in interstate commerce and are referred to herein as "the Workers."

14. The Workers are directly employed by Defendant, are paid an hourly wage, and are not exempt from the FLSA's wage and hour requirements.

15. Due to the nature of chicken preparation and packaging, Defendant requires all Workers to wear, maintain, and utilize various gear and equipment necessary to ensure sanitary plant conditions, protect Workers from injury, and comply with governmental mandates. This gear/equipment may include, but is not limited to, the following items: smocks, impervious foot coverings, hair nets, plastic sleeves, plastic gloves, beard nets, plastic aprons, hearing protection devices, eye guards, face masks, leather gloves, cotton gloves, rubber gloves, arm guards, steel toed boots, bump caps, freezer suits, and rain suits.

16. Pursuant to Defendant's common business practices, at the commencement of the workday, Workers gather and don their gear/equipment in common pick-up/changing areas. After the gear/equipment is readied and donned, the Workers travel to their workstations within the plant and wait for production work to begin.

17. Pursuant to Defendant's common business practices, Workers are not compensated for all time spent performing essential and necessary pre-production line activities, such as, *inter alia*, waiting for gear/equipment, gathering gear/equipment, donning gear/equipment, readying gear/equipment, traveling from the common pick-up/changing areas to the workstation, or waiting at the workstation for production work to begin.

18. Pursuant to Defendant's common business practices, Workers receive an unpaid meal break.

19. Pursuant to Defendant's common business practices, Workers are not compensated for all time spent doffing their gear/equipment at the commencement of the unpaid meal break or donning their gear/equipment at the conclusion of the unpaid meal break.

20. Upon the completion of their production work, Workers, pursuant to Defendant's common business practices, must travel from their workstations to common drop-off/changing areas, where Workers doff their gear/equipment, clean their gear/equipment, wait to return their gear/equipment, and return their gear/equipment to designated drop-off locations.

21. Pursuant to Defendant's common business practices, Workers are not compensated for all time spent performing essential and necessary post-production line activities, such as, *inter alia*, traveling from their work stations to the common changing/drop-off locations, waiting to doff their gear/equipment, doffing their gear/equipment, waiting to return their gear/equipment, or returning their gear/equipment.

22. The gear/equipment worn and used by Workers is necessitated by important health and safety risks associated with Defendant's chicken preparation and packaging operations, and the donning, doffing, readying and distribution of such gear/equipment is an integral and indispensable part of the principal activities for which Workers are employed.

23. Pursuant to Defendant's common practices, Defendant declines to record all of the time it requires or permits its Workers of the proposed class to work; working uncompensated time commonly known as working "off-the-clock."

#### **INDIVIDUAL ALLEGATIONS**

24. During all relevant times, Plaintiffs Brown, Hall, and Moon were employed by Defendant in its Elberton Plant.

25. Plaintiffs were paid an hourly wage and were not exempt from the FLSA's wage and hour requirements.

26. Plaintiffs were required to wear, maintain, and utilize various gear/equipment, all of which was an integral and indispensable part of the principal activities for which they were employed. Such gear/equipment included, *inter alia*, the following: smocks, impervious foot coverings, hair nets, plastic sleeves, plastic gloves, beard nets, plastic aprons, hearing protection devices, eye guards, face masks, leather gloves, cotton gloves, rubber gloves, arm guards, steel toed boots, bump caps, freezer suits, and rain suits. Plaintiffs were required to pick up much of this gear/equipment on a daily basis at designated pick up rooms located outside of the Elberton Plant's preparation and packaging area. At the beginning and end of their workday, Plaintiffs donned and doffed such gear/equipment in a common locker room area located outside of Elberton Plant's preparation and packaging area. Plaintiffs also doffed and donned this gear/equipment at the beginning and end of their unpaid meal break.

27. Plaintiffs were not paid for all of their pre-production line and post-production line work, including, *inter alia*, time spent: waiting to gather their gear/equipment, gathering their gear/equipment, donning their clothing/gear, cleaning their gear/equipment, traveling between the common pick-up/changing location to their workstations, waiting at their workstation for production work to begin, waiting to doff their gear/equipment, doffing their gear/equipment, waiting to return their gear/equipment, and returning their gear/equipment. All of these activities were an integral and indispensable part of the principal activities for which Plaintiffs were employed.

28. Plaintiffs are compensated for approximately 40 hours of work per week. In total, Plaintiffs are denied compensation, either at a regular rate or at an overtime premium, for any

number of hours per week in excess of 40 hours per week for the unrecorded or “off-the clock” time described above.

### **COLLECTIVE ACTION ALLEGATIONS**

29. Plaintiffs bring this action pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the following classes of potential opt-in litigants:

All current and former employees employed by Defendant in its Elberton Plant who have held non-exempt positions at any time during all or any part of the period beginning three years before the filing of the Complaint to the present.

30. Plaintiffs and the above class members are “similarly situated,” as that term is defined in 29 U.S.C. § 216(b), because, *inter alia*, all class members worked pursuant to Defendant’s common business practices and, as a result of such practices, were not compensated for all work performed during the workday and, where such work hours exceeded forty hours in a workweek, were not paid the legally mandated overtime premium.

### **FLSA CLAIM**

31. All previous paragraphs are incorporated as though fully set forth herein.

32. The FLSA requires that covered employees be compensated for every hour worked in a workweek. *See* 29 U.S.C. § 206(b).

33. The FLSA requires that covered employees receive overtime compensation “not less than one and one-half times” the employee’s regular rate of pay for all hours worked over 40 in a workweek. *See* 29 U.S.C. § 207(a)(1).

34. The FLSA requires that all covered employer make, keep, and preserve records of employees on wages and hours. *See* 29 U.S.C. § 211(c).

35. Plaintiffs and the class are covered employees entitled to the FLSA’s protections.

36. Plaintiffs and the class are not exempt from receiving FLSA overtime benefits because, *inter alia*, they are not “executive,” “administrative,” or “professional” employees, as those terms are defined under the FLSA. *See* 29 C.F.R. §§ 541.0, *et seq.*
37. Defendant is a covered employer required to comply with the FLSA’s mandates.
38. Defendant has violated the FLSA with respect to Plaintiffs and the class by, *inter alia*, failing to compensate Plaintiffs and the class for all hours worked and, with respect to such hours, failing to pay Plaintiff and the class the legally mandated overtime premium for such work on those occasions where the work exceeded 40 hours in a workweek.
39. Defendant has violated the FLSA with respect to Plaintiffs and the class by, *inter alia*, failing to make, keep and preserve records of Plaintiffs and members of the proposed class showing all time it permitted or required Plaintiffs and members to work.
40. In violating the FLSA, Defendant acted willfully and with reckless disregard of clearly applicable FLSA provisions.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs seek the following relief on behalf of themselves and all others similarly situated:

- A. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);
- B. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all potential class members;
- C. An injunction prohibiting Defendant from engaging in future violations of the FLSA;
- D. Compensatory and back pay damages to the fullest extent permitted under federal law;



- E. Liquidated damages to the fullest extent permitted under federal law;
- F. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under federal; and
- G. Such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury as to all claims so triable.

Date: March \_\_\_\_, 2007

Respectfully submitted,

---

PREYESH MANIKLAL  
Georgia Bar No. 468887  
TISHA R. TALLMAN  
Georgia Bar No. 696949  
Gregory, Christy, Maniklal & Dennis, LLP  
4360 Chamblee Dunwoody Road, Suite 428  
Atlanta, GA 30341  
(404) 875-0630

DAVID MOSKOWITZ  
Georgia Bar No. 526640  
Moskowitz & Caraway, P.C.  
8097 Roswell Road, Bldg. C - Suite 200  
Atlanta, GA 30350  
(404) 321-4060

Counsel for Plaintiffs