

FILED
U.S. DISTRICT COURT

2008 JUN 23 P 1:23

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Jesse S. Brar, Utah Bar # 9469; jbrar@xmission.com
Sharon Preston, Utah Bar # 7690; sharon@xmission.com
716 East 4500 South, Suite N-142
Salt Lake City, UT 84107
Telephone: (801) 269-9541
Facsimile: (801) 269-9581

Mick G. Harrison, Esq.; mickharrisesq@earthlink.net
Pro Hac Vice
128 Main Street, P.O. Box 467
Berea, KY 40403
Telephone: (859) 986-0868, (859) 321-1586
Facsimile: (859) 986-2695

Lauren Scholnick, Utah Bar # 07776; lauren@utahjobjustice.com
Erik Strindberg, Utah Bar # 04154; erik@utahjobjustice.com
STRINDBERG & SCHOLNICK, LLC
426 N. 300 West
Salt Lake City, UT 84103
Telephone: (801) 359-4169
Facsimile: (801) 359-4313

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

Robert Dennis, Terry North, and Debra
Marigoni Individually and on Behalf of
Others Similarly Situated

Plaintiffs,

vs.

EG&G DEFENSE MATERIALS, INC., a
corporation, (a subsidiary of URS
Corporation, Inc.)

Defendant.

COMPLAINT FOR VIOLATION OF FAIR
LABOR STANDARDS ACT OF 1938;
AND UTAH PAYMENT OF WAGES ACT

**PROPOSED COLLECTIVE AND CLASS
ACTION**

JURY DEMANDED

Case: 2:08cv00482
Assigned To : Stewart, Ted
Assign. Date : 6/23/2008
Description: Dennis et al v.
EGGDefense Materials

Representative Plaintiffs, Robert Dennis, Terry North, and Debra Marigoni (hereafter referred to as "Representative Plaintiffs"), by and through their attorneys Jesse Brar, Sharon Preston, Mick Harrison, Lauren Scholnick, and Erik Strindberg, upon personal knowledge as to matters concerning themselves and upon information and belief as to other matters, and as and for their Complaint against EG&G Defense Materials, Inc., (hereinafter "EG&G" and/or "Defendant") allege as follows:

NATURE OF THE ACTION

1. The Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201 et seq.)(hereafter "FLSA") provides for standards for overtime compensation.
2. With regards to claims under the FLSA, and pursuant to 29 U.S.C. § 216(b), Representative Plaintiffs bring this action on behalf of themselves, and as a Collective Action on behalf of all other persons similarly situated (hereafter referred to as "the proposed FLSA Class").
3. The Utah Payment of Wages Act (Utah Code Ann. §§ 34-28-1 to -19)(hereafter "UPWA") provides additional protections to workers, including, but not necessarily limited to, entitlement to wages for all regular (i.e., non-overtime) hours worked.
4. With regards to claims under the UPWA, Breach of Contract, and Quantum Meruit/Unjust Enrichment, Representative Plaintiffs bring this action on behalf of themselves and, pursuant to Rule 23 of the Federal Rules of Civil Procedure, as a Class Action on behalf of all others similarly situated who are currently or were previously employed by EG&G within the State of Utah (hereafter referred to as "the proposed Utah Classes").

5. The Defendant, EG&G, is, and was, at all times relevant hereto, a corporation organized under the laws of the State of Delaware, with its principal place of business in the State of Maryland, and conducting business in Utah.

6. EG&G was at all times relevant hereto engaged as a U.S. Government contractor responsible for chemical warfare agent disposal operations at the Tooele Chemical Agent Disposal Facility (“TOCDF”) in Tooele, Utah.

7. The Representative Plaintiffs are currently employed or were previously employed by EG&G at the TOCDF in Tooele, Utah.

8. As set forth in detail below, it is EG&G’s policy and practice to require and/or cause its non-exempt (hourly-paid) employees at the TOCDF to engage in work without compensation in violation of the provisions of the FLSA and the UPWA; and in breach of oral and written contracts regarding payment of wages; and in violation of the common-law doctrine of Unjust Enrichment/Quantum Meruit.

9. With regards to the claims under the FLSA, the Representative Plaintiffs, on behalf of themselves and the proposed FLSA Class, seek unpaid overtime compensation and interest thereon, liquidated damages and other penalties, injunctive and other equitable relief, and reasonable attorneys' fees and costs.

10. With regards to the claims under UPWA, Representative Plaintiffs, on behalf of themselves and the proposed Utah Classes, seek unpaid regular non-overtime wages and interest thereon, pre- and post-judgment interest, injunctive and other equitable relief, and reasonable attorneys' fees and costs.

11. With regards to the claims under Breach of Contract and Quantum Meruit/Unjust Enrichment, Representative Plaintiffs, on behalf of themselves and the proposed Utah Classes, seek unpaid regular non-overtime wages and interest thereon, pre- and post-judgment interest, injunctive and other equitable relief.

12. This action is brought to redress and end a long-time pattern of willful and unlawful conduct by EG&G.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to the provisions of the FLSA, specifically 29 U.S.C. §§ 207, 216, and 217. This Court also has jurisdiction in light of the existence of a controversy arising under the laws of the United States (28 U.S.C. §1331), diversity jurisdiction under 28 U.S.C. §1332, and supplemental jurisdiction to consider claims arising under Utah state law, pursuant to 28 U.S.C. §1367.

14. Defendant is subject to personal jurisdiction in Utah.

15. The state law claims of the Representative Plaintiffs' and the members of the proposed Utah Classes are so closely related to their FLSA claims that they form part of the same case or controversy.

16. Defendant conducts business in the Central District of Utah.

17. Venue in the Central District of Utah is proper pursuant to 28 U.S.C. § 1391(b) and (c).

18. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

Plaintiffs

19. Representative Plaintiffs Robert Dennis, Terry North, and Debra Marigoni are natural persons and, during the relevant time periods identified herein, are or were employed by EG&G.

20. Plaintiff Robert Dennis is resident of Utah and is currently employed by the Defendant as a Control Room Operator.

21. Plaintiff Terry North is resident of Utah and is employed by the Defendant as a Paramedic (alternatively referred to as “Medical Technician”).

22. Plaintiff Debra Marigoni is resident of Utah and is employed by the Defendant as a Paramedic (alternatively referred to as “Medical Technician”).

Defendant

23. EG&G is a corporation organized under the laws of the State of Delaware, with its principal place of business in the State of Maryland, and conducting business in the State of Utah.

24. EG&G is a prime contractor for the U.S. Army at the TOCDF, Toole, Utah, and maintains control, oversight, and direction over Representative Plaintiffs and members of the proposed Classes who work or worked at the TOCDF, including the payroll and other employment practices therein.

COMMON FACTUAL ALLEGATIONS FOR ALL CLAIMS

25. Representative Plaintiffs hereby incorporate each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

26. Representative Plaintiffs and members of the proposed FLSA and Utah Classes are currently or were previously employed by the Defendant EG&G.

27. Representative Plaintiffs and each member of the proposed FLSA and Utah Classes had a written and/or oral contract with the Defendant, through which EG&G agreed to payment of a particular wage, and other compensation, for work performed.

28. Defendant has consistently practiced and continues to practice a policy of permitting, encouraging, and/or requiring its non-exempt employees, including Representative Plaintiffs and members of both proposed Classes, to work without compensation, or for less than the agreed-upon compensation, as follows:

Pre-Shift Issues

29. Representative Plaintiffs and members of the proposed Classes were required by EG&G's Policies and Procedures to have a "mask carrier" (containing a gas mask and nerve agent antidote kits) on their person or within arm's length at all times while on site.

30. Upon arrival at the site, Representative Plaintiffs and members of the proposed Classes who worked inside the "double fence" were required to first pick up their mask carriers from the "Mask Trailer" which is located outside the double fence.

31. After obtaining their mask carrier, and in order to enter the double-fenced area, employees were required to go through a security screening gate and process, which could oftentimes be quite lengthy.

32. Once inside the double fence, Representative Plaintiffs and members of the proposed Classes were required to go to the Personnel Maintenance Building (PMB) and change from their street clothes into EG&G-provided clothes.

33. After changing clothes, Representative Plaintiffs and members of the proposed Classes walked to their designated work areas which are located at various locations throughout the double-fenced area.

34. Defendant failed to pay the Representative Plaintiffs and members of the proposed Classes the regular wages and overtime wages for the period from when they picked up their mask carriers to the time that they arrived at their respective work stations.

35. The amount of uncompensated pre-shift work performed by Representative Plaintiffs and proposed Utah and FLSA class members amounts to approximately 30-60 minutes per day per person, with the exact amount to be determined at trial.

Meal Period Issues

36. Defendant had, and continues to have, a policy and practice of deducting thirty minutes of pay each day for time designated as meal periods from the Representative Plaintiffs and members of the proposed Classes (except for the Paramedics, who were paid for their meal periods, and are not making any claim with regards to meal periods).

37. Representative Plaintiffs and members of the proposed Classes were and/or are required during meal breaks to be actively on call at all times (via telephone, handheld radios, intercoms, and/or pagers) and to answer any calls and/or attend to any situation that arises during such breaks.

38. Representative Plaintiffs and members of the proposed Classes were and/or are, in fact, frequently interrupted during their meal periods by work-related phone or radio calls, and/or by actually being required to leave the break room entirely to attend to some work-related issue.

39. Representative Plaintiffs and members of the proposed Classes often took and/or take less than 30 uninterrupted minutes for their meal breaks, due to the work-related interruptions and activities described above; but yet, in such cases, 30 minutes was still deducted from their pay.

40. Representative Plaintiffs and members of the proposed Classes were and/or are told by their supervisors and managers that they could not sleep or take a nap during their lunch breaks because they were required to be alert to possible calls and/or pages.

41. Representative Plaintiffs and members of the proposed Classes were and/or are required to take their meal break only in a designated lunch room within the double-fenced area.

42. Representative Plaintiffs and members of the proposed Classes were and/or are required to stay within the double-fenced area and were not allowed to run any errands or even go to their cars during lunch breaks, because they were required be present within the double-fenced area in order to respond immediately to any calls or pages.

43. During their meal break, Representative Plaintiffs and members of the proposed Classes were and/or are required to have their mask carrier (containing a gas mask and nerve agent antidote kits) on their person or within arm's reach at all times.

44. Representative Plaintiffs and members of the proposed Classes were and/or are required to stay in their EG&G clothing during meal breaks.

45. EG&G had and has a policy called "Limiting Conditions of Operation" ("LCO"), which mandates minimum conditions which must be in place at all times for operations to continue.

46. According to the LCO, a certain minimum number of operators must be on site at all times in order for operations to continue, and this number very-closely correlates to the scheduled number of employees per shift.

47. Representative Plaintiffs and members of the proposed Classes were and/or are required to stay onsite and on-call during meal periods (at least in part) to assure compliance with the above-mentioned LCOs.

Post-Shift Issues

48. Representative Plaintiffs and members of the proposed Classes were required to engage in work after the official end of the shift and up to the point of returning their mask carrier to the mask trailer, for which they were not compensated; including changing out of EG&G clothing, performing “shift turnover” (exchanging information with the incoming shift), and returning their mask carriers to the mask trailer.

49. The amount of uncompensated post-shift work which was performed by Representative Plaintiffs and proposed Utah and FLSA class members amounts to approximately 10-30 minutes per day per person, with the exact amount to be determined at trial.

Calculation of Overtime Issues

50. The Fair Labor Standards Act requires that overtime earned by a nonexempt employee must be paid at not less than one-and-one-half times the employee’s “regular rate” of pay.

51. The FLSA also dictates that the “regular rate” of pay include payments such as shift differentials, night differentials, Sunday premiums, nondiscretionary bonuses, hazardous payment differentials, “entry” pay, and cafeteria plan payments.

52. Defendant failed to properly compute and pay overtime wages by failing to include in the “regular rate” of pay shift differentials, night differentials, Sunday premiums, nondiscretionary bonuses, hazardous payment differentials, “entry” pay, and cafeteria plan payments.

Miscellaneous Allegations

53. EG&G has also failed to maintain records of the actual hours worked by the Operators, Medical, Maintenance Technicians, and Instrument & Control (“I&C”) Technicians, paramedics, and/or other similarly situated non-management employees. This is required by the FLSA and Utah Law.

COLLECTIVE AND CLASS ACTION ALLEGATIONS

54. Representative Plaintiffs hereby incorporate each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

55. Representative Plaintiffs bring this action individually and as collective and class actions, on behalf of all persons similarly situated to them, including the following proposed Classes:

FLSA Pre- and Post-Shift Class: All persons who are, or have been, employed by the Defendant EG&G as Operators, Paramedics (alternatively known as Medical Technicians), Maintenance Technicians, and/or Instrument & Control (“I&C”) Technicians, who were not paid for any time worked over 40 hours in any workweek for pre-shift and post-shift activities as set forth above within Paragraphs 25 through 53; and who, additionally, did not file a written consent to join the case of *Land et al. v. EG&G Defense Materials, Inc.* (Case No. 2.04-cv-479).

FLSA Meal-Period Class: All persons who are, or have been, employed by the Defendant EG&G as Operators, Maintenance Technicians, and/or Instrument & Control (“I&C”) Technicians, who were and/or are not paid for any time worked over 40 hours in any workweek for meal periods during which they were required to remain on-site and actively on-call, and/or were not given an uninterrupted 30-minute meal period, as set forth above within Paragraphs 25

through 53 (and Paragraphs 36 through 47, specifically); and who, additionally, did not file a written consent to join the case of *Land et al. v. EG&G Defense Materials, Inc.* (Case No. 2.04-cv-479).¹

Utah Pre- and Post-Shift Class: All persons who are, or have been, employed by the Defendant EG&G as Paramedics (alternatively known as Medical Technicians), who were not paid regular non-overtime wages (i.e., during weeks where the compensated work and the uncompensated work did not exceed 40 hours) for pre-shift and/or post-shift work (as set forth above within Paragraphs 25 through 53).

56. Utah Meal-Period Class: All persons who are, or have been, employed by the Defendant EG&G as Operators, Maintenance Technicians, and/or Instrument & Control (“I&C”) Technicians, who were and/or are not paid regular non-overtime wages (i.e., during weeks where the compensated work and the uncompensated work did not exceed 40 hours) for meal periods during which they were required to remain on-site and actively on-call, and/or were not given an uninterrupted 30-minute meal period, as set forth above in Paragraphs 25 through 52 (and Paragraphs 36-47 specifically); and who, additionally, did not file a written consent to join the case of *Land et al. v. EG&G Defense Materials, Inc.* (Case No. 2.04-cv-479).

57. Overtime Calculation Class: All persons who are, or have been, employed by the Defendant EG&G as Operators, Paramedics (or alternatively known as Medical Technicians), Maintenance Technicians, and/or Instrument & Control (“I&C”) Technicians, and who were subjected to the EG&G policy of failing to properly compute and pay overtime wages by failing

¹ The FLSA claims are separated into two classes solely because the paramedics are paid for their meal periods, and thus are not included in the FLSA meal period class. The Utah claims are separated into two classes for the same simple reason (i.e., simply to exclude the paramedics from the claim for uncompensated meal periods).

to include in the “regular rate” of pay shift differentials, night differentials, Sunday premiums, nondiscretionary bonuses, hazardous payment differentials, “entry” pay, and cafeteria plan payments, as set forth above in Paragraphs 50 through 53); and who, additionally, did not file a written consent to join the case of *Land et al. v. EG&G Defense Materials, Inc.* (Case No. 2.04-cv-479).

Collective Action Allegations for Federal Claims

58. The FLSA Claim has been brought and may properly be maintained as a Collective Action under 29 U.S.C. § 216 because members of the proposed FLSA Class were subjected to the identical policies and practices (as alleged in Paragraphs 25-53) to which the Representative Plaintiffs have been subjected, and have thereby been similarly deprived of overtime compensation to which they were lawfully entitled under FLSA.

59. The members of the proposed FLSA Class would benefit from the issuance of a court-supervised notice of the present lawsuit and the opportunity to join the present lawsuit as party plaintiffs (by filing written consent with the Court, pursuant to 29 U.S.C. § 216(b)).

60. The members of the proposed FLSA Class are known to EG&G, are readily identifiable, and can be located through EG&G’s records.

61. Pursuant to 29 U.S.C. § 216(b), the Representative Plaintiffs hereby submit their written consents to serve as party plaintiffs and to join the proposed FLSA Class. (Attached as Exhibit 1).

62. Defendant, its officers and directors are excluded from each of the FLSA Class.

Class Action Allegations for State Law Claims

63. The claims under Utah law (i.e., UPWA, breach of contract, and/or quantum meruit/unjust enrichment) may properly be maintained as a Class Action under Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Classes are easily ascertainable, and the following Rule 23 requirements are met:

64. Numerosity: The total number of members of the proposed Utah Classes exceeds 175 individuals. The members of the proposed Utah Classes are so numerous that joinder of all members is impractical, and a class action is the only available method for the fair and efficient adjudication of this controversy.

65. Commonality: There are common questions and issues of fact and law which predominate over any issues solely affecting individual members; specifically, whether Defendant, in violation of Utah law (UPWA, breach of contract, and /or quantum meruit/unjust enrichment) failed to pay non-overtime wages to the Representative Plaintiffs, and members of the proposed Utah Classes, by means of the policies and practices as set forth above in Paragraphs 25 through 53.

66. Typicality: The Representative Plaintiffs' state claims are typical of the claims of the proposed Utah Classes, in that the claims are grounded in the allegation that the Defendant, in violation of UPWA, failed to pay non-overtime wages to Utah-based employees by means of the policies and practices as set forth above in Paragraphs 25 through 53.

67. Superiority of Class Action: Since the damages suffered by members of the proposed Utah Classes (although not inconsequential) may be relatively small, the expense and burden of

individual litigation by each member will likely make it impractical for members of the proposed Utah Classes to seek redress individually for the wrongful conduct alleged herein. Moreover, separate actions by each individual member of the proposed Utah Classes, and the resulting multiplicity of lawsuits, would cause undue hardship and expense for the Court and the litigants. Finally, the prosecution of separate actions would also create a risk of inconsistent rulings.

68. Adequacy of Representative Plaintiffs: The Representative Plaintiffs in this class action are adequate representatives of the proposed Utah Classes, since the Representative Plaintiffs' claims are identical to those of the proposed Utah Classes, and thus, the Representative Plaintiffs have the same interests in this litigation as members of the proposed Utah Classes. The Representative Plaintiffs are committed to vigorous prosecution of this case, and have retained competent counsel who are experienced in litigation of this nature. The Representative Plaintiffs are not subject to any individual defenses unique from those conceivably applicable to the Class as a whole. The Representative Plaintiffs anticipate no management difficulties in this litigation.

69. Representative Plaintiffs will fairly and adequately protect the interests of each Class. Counsel who are competent and experienced in such civil litigation represent Representative Plaintiffs and members of the proposed classes.

FIRST CAUSE OF ACTION
(Violations of the Fair Labor Standards Act)

70. Representative Plaintiffs hereby incorporate each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

71. This cause of action, for violations of the FLSA, applies to the Representative Plaintiffs and members of the proposed FLSA Class as defined in Paragraph 54 above.

72. At all times relevant hereto, Representative Plaintiffs have been and continue to be entitled to the rights, protections, and benefits under the FLSA, 29 U.S.C. §§ 201, et seq.

73. At all times relevant hereto, EG&G has been an employer as defined under 29 U.S.C. § 203(b) and (d).

74. At all times relevant hereto, EG&G has been an "enterprise engaged in commerce or in the production of goods for commerce" as defined under 29 U.S.C. §203(s)(1).

75. On certain weeks, Representative Plaintiffs and members of the proposed FLSA Class were scheduled, as a matter of course, to work more than 40 hours per week; and therefore all of the uncompensated time worked (as alleged above in Paragraphs 25 to 53) was compensable as overtime under the FLSA.

76. Defendant's failure to pay compensation for work in excess of 40 hours per week to the Representative Plaintiffs and members of the proposed FLSA Class (as described in Paragraphs 25-53) was in violation of the FLSA, 29 U.S.C. §§ 206 and 207.

77. The practices and policies described above in Paragraphs 25-53, by which means the Representative Plaintiffs and proposed FLSA Class members were deprived of overtime pay, is a company-wide practice which is applied to Representative Plaintiffs and members of the proposed FLSA Class at TOCDF.

78. Representative Plaintiffs and members of the proposed FLSA Class are entitled to unpaid overtime compensation beginning three years prior to the filing of this Complaint because EG&G acted knowingly and willfully and/or showed reckless disregard as to whether their conduct was prohibited by the FLSA.

79. Defendant also failed to properly compute and pay overtime wages by failing to include in the “regular rate” of pay (upon which overtime pay must be calculated) certain payments such as shift differentials, night differentials, Sunday premiums, nondiscretionary bonuses, hazardous payment differentials, “entry” pay, and cafeteria plan payments.

80. As a result of the aforesaid willful violations of the FLSA's overtime pay provisions, EG&G is liable pursuant to 29 U.S.C. § 216(b) for unpaid overtime compensation for work performed in excess of 40 hours per week, and for unpaid overtime due to miscalculation of regular rate of pay; together with an additional amount as liquidated damages and/or pre- and post-judgment interest, reasonable attorneys' fees, and costs of this action.

SECOND CAUSE OF ACTION
(Violations of the Utah Payment of Wages Act)

81. Representative Plaintiffs incorporate in this cause of action each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

82. Defendant, in violation of the UPWA, failed to pay regular non-overtime wages for time worked by the Representative Plaintiffs, and members of the proposed Utah Classes, by means of the policies and practices set forth above in Paragraphs 25-53.

83. On certain weeks, Representative Plaintiffs and members of the proposed Utah Classes were scheduled, as a matter of course, to work less than 40 hours per week; and therefore all of the uncompensated time worked in those weeks (as alleged above in Paragraphs 25 to 53) was compensable as regular non-overtime pay under the UPWA.

84. The Representative Plaintiffs and the members of the proposed Utah Classes are entitled to an award of the full amount of the unpaid regular wages, beginning four years prior to the

filing of this Complaint, as well as pre- and post-judgment interest, and such other legal and equitable relief as the Court deems just and proper.

THIRD CAUSE OF ACTION
(Breach of Contract)

85. Representative Plaintiffs incorporate in this cause of action each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

86. EG&G expressly made an offer, orally and in writing, to pay Representative Plaintiffs and members of the proposed Utah Classes a specific wage for each hour worked.

87. EG&G expressly made an offer, orally and in writing, to pay Representative Plaintiffs and members of the Utah Classes additional compensation in the form of night-shift differentials, Sunday premiums, shift differentials, and other compensation for each hour worked.

88. Throughout its policies and procedures (e.g., DMI-9-Working Hours and Rest Periods Policy, DMI-1A-Compensation Administration Plan Policy; DMI-1E-Time Cards and Paycheck Policy, DMI-1C-Premium Pay Policy, and EGG-DEF-9-Shift Differential Policy), EG&G confirmed its offer, agreement, and obligation to pay its hourly employees the agreed-upon rate and additional compensation for all time worked.

89. Representative Plaintiffs and each member of the proposed Utah Classes performed work pursuant to the offer made by EG&G, and were entitled to receive the agreed-upon wages and other compensation.

90. EG&G breached its contractual obligation to the Representative Plaintiffs and members of the proposed Utah Classes (pursuant to the practices and policies described above in

Paragraphs 25-52) by failing to pay the full amount of agreed-upon wages and compensation for each hour worked.

91. Representative Plaintiffs and each member of the proposed Utah Classes suffered damages because they performed work and were not paid the agreed-upon wages and other compensation for each hour worked.

92. The Representative Plaintiffs and the members of the proposed Utah Classes are entitled to an award of the full amount of the unpaid non-overtime wages and other compensation, beginning six years (for breach of a written contract) or four years (for breach of an oral contract) prior to the filing of this Complaint, as well as pre- and post-judgment interest, and such other legal and equitable relief as the Court deems just and proper.

FOURTH CAUSE OF ACTION
(Quantum Meruit/Unjust Enrichment)

93. Representative Plaintiffs incorporate in this cause of action each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

94. Representative Plaintiffs and the members of the proposed Utah Classes conferred a substantial benefit on EG&G by performing the pre-shift and meal period work described above in Paragraphs 25-52.

95. EG&G had knowledge of the uncompensated work performed by the Representative Plaintiffs and the members of the proposed Utah Classes, and in fact, knowingly permitted, encouraged and/or required that such work be performed.

96. Representative Plaintiffs and the members of the proposed Utah Classes performed this work with the expectation of receiving compensation and/or the fear of being disciplined or discharged for refusing to work as requested.

97. EG&G benefited significantly by accepting the benefits of the labor of the Representative Plaintiffs and members of the proposed Utah Classes, and withholding compensation for such labor.

98. It would be inequitable for EG&G to retain the benefits and profits obtained from the work performed by Representative Plaintiffs and members of the proposed Utah Classes without paying compensation for their work.

99. The Representative Plaintiffs and the members of the proposed Utah Classes are entitled to an award for the full value of the uncompensated work they performed (as described above in Paragraphs 25-52), beginning six years prior to the filing of this Complaint, as well as pre- and post-judgment interest, and such other relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, the Representative Plaintiffs, on behalf of themselves and members of the proposed FLSA and Utah Classes, pray for judgment and the following specific relief against defendant EG&G as follows:


- a. That the Court declare, adjudge and decree that this action is a proper class/collective action and certify the proposed FLSA Class and the Utah Classes under 29 U.S.C. § 216 and FRCP Rule 23, respectively;
- b. That this Court designate the named Plaintiffs as Class Representatives and their lawyers as Class Counsel;

- c. That, at the earliest possible time, Plaintiffs be allowed to give notice of this collective action, or that the Court issue such notice, to all members of the proposed FLSA and Utah Classes, with such notice informing them that this civil action has been filed, the nature of the action, and of their right to join this lawsuit;
- d. Damages and restitution in an amount to be proven at trial;
- e. Liquidated damages, pre-judgment and post-judgment interest, as provided by law;
- f. An award to Representative Plaintiffs and members of the proposed FLSA and Utah Classes of reasonable attorneys' fees and costs pursuant to the FLSA and Utah law;
- g. Appropriate equitable and injunctive relief to remedy EG&G's violations of the FLSA and the UPWA, including but not necessarily limited to an order enjoining EG&G from continuing its unlawful practices; and
- h. All other relief as this Court may deem proper.

JURY DEMAND

Representative Plaintiffs and the members of the proposed FLSA Class and the proposed Utah Classes hereby demand trial by jury on all issues triable of right by jury.

Respectfully submitted this 23rd day of June, 2008



Jesse S. Brar
Sharon L. Preston
Mick Harrison
Lauren Scholnick
Erik Strindberg
Attorneys for Plaintiffs