

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

BETTIE ASAMOAH, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PIEDMONT PETROLEUM CORP. and
KENNETH C. COSGROVE,
individually,

Defendants.

C/A: 2:15-cv-1914-RMG

**FLSA
COLLECTIVE ACTION**

JURY TRIAL DEMANDED

Plaintiff, Bettie Asamoah (“Asamoah”), on behalf of herself and all others similarly situated, and all of the filed Opt-Ins to date (all jointly “Plaintiffs”), complaining of the acts of Defendants Piedmont Petroleum Corp. (“Piedmont”) and Kenneth C. Cosgrove (“Cosgrove”), (Piedmont and Cosgrove collectively “Defendants”), alleges as follows:

NATURE OF CLAIM

1. This action is brought individually and as a collective action for unpaid minimum wages, for liquidated damages, and for other relief under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. (“FLSA”). The collective action provisions under the FLSA provide for opt-in class participation.

PARTIES, JURISDICTION, and VENUE

2. Plaintiffs reallege each and every allegation contained in Paragraphs 1 as if repeated here verbatim.

3. Asamoah is a citizen and resident of the State of South Carolina, County of Charleston and was employed by Piedmont in Charleston County.

2. Upon information and belief, Piedmont is a South Carolina corporation maintaining offices, employing numerous individuals, and otherwise doing business, all in the County of Charleston, State of South Carolina.

3. Upon information and belief, Cosgrove is a citizen and resident of the County of Greenville, State of South Carolina, and an owner of Piedmont.

4. This court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 based upon Plaintiffs' claims under the FLSA.

5. Asamoah brings this action, as an opt-in Collective Action pursuant to 29 U.S.C. § 216(b), on behalf of a class of individuals who were employed by Piedmont at any time within the three (3) years prior to joining this lawsuit who were nonexempt employees.

6. Based upon the above, jurisdiction and venue are proper in this court and division.

7. The work and pay records of Plaintiffs and the members of the Plaintiff class are in the possession, custody, and/or control of Defendants, and Defendants are under a duty, pursuant to section 11(c) of the FLSA, 29 U.S.C. § 211(c), and the regulations of the United States Department of Labor, to maintain and preserve such payroll and other employment records from which the amount of Defendants' liability can be ascertained. Plaintiffs request an order of this Court requiring Defendants to preserve such records during the pendency of this action.

FACTS

8. Plaintiffs reallege each and every allegation contained in Paragraphs 1 through 14 as if repeated here verbatim.

9. Piedmont owns and operates numerous service stations across the State of South Carolina, including several in Charleston County.

10. Cosgrove exercises operational control over Piedmont; he has the authority to hire, discipline, and fire employees of Piedmont; he has the authority to set the wages and pay for Plaintiffs, and, therefore, Cosgrove is individually liable to Plaintiffs.

11. Asamoah was employed by Piedmont as an attendant from 2008 until July 20, 2014.

12. Piedmont required Plaintiffs to perform duties after clocking out, including but not limited to paperwork and restocking items.

21. On information and belief, the practice of requiring work to be performed after “clocking-out” exists at multiple Piedmont locations.

22. On numerous occasions, Asamoah came to the station to fix problems that other employees were encountering when a manager could not be reached. Asamoah was told by management of Piedmont that she was not to “clock-in” during this time.

23. Plaintiffs questioned management of Piedmont on the practices of whether these practices were illegal, but Piedmont continued these practices in reckless disregard of the law.

Violation of Fair Labor Standards Act
29 U.S.C. § 203
(Working Off the Clock)

24. Plaintiffs reallege each and every allegation contained in Paragraphs 1 through 23 as if repeated here verbatim.

25. At all times pertinent to this Complaint, Piedmont engaged in interstate commerce or in the production of goods for commerce as defined by 29 U.S.C. § 203(r) and 203(s).

26. At all times relevant to this Complaint, Piedmont’s annual gross volume of sales made or business done was not less than Five Hundred Thousand and 00/100 dollars (\$500,000.00). Alternatively, Plaintiffs worked in interstate commerce so as to fall within the protection of the

FLSA.

27. The business of Piedmont was and is an enterprise engaged in commerce as defined by 29 U.S.C. § 203(s)(1) and, as such, Piedmont is subject to, and covered by, the FLSA.

28. The FLSA, 29 U.S.C. § 206, requires employers to pay its nonexempt employees a minimum wage of Seven and 25/100 dollars (\$7.25) an hour for all hours employed.

29. The FLSA, 29 U.S.C. § 203(g) defines employ to mean to suffer or permit to work.

30. Defendants have violated the FLSA, 29 U.S.C. § 206, by not paying for all hours during which Plaintiffs were made to perform work, in reckless disregard of the rights of Plaintiffs.

31. As such, Plaintiffs seek to recover from Defendants the following damages:

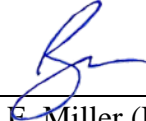
- a. actual damages in the amount of wages due;
- b. liquidated damages of an equal amount; and
- c. reasonable attorneys' fees and the costs and disbursements of this action.

WHEREFORE, having fully set forth their allegations against Defendants, Plaintiffs respectfully request that the Court enter judgment for the following relief:

- a. An order authorizing the sending of appropriate notice to current and former employees of Defendants who are potential members of the collective action, but have yet "opted-in," under the FLSA;
- b. Actual damages in the amount of wages due;
- c. Liquidated damages of an equal amount;
- d. Reasonable attorneys' fees and costs;
- e. Injunctive relief ordering Defendants to amend their wage and hour policies to comply with applicable federal and state laws; and

f. Such further relief as the Court deems just and proper.

Plaintiffs request a trial by jury.



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**ATTORNEYS FOR BETTIE ASAMOAH,
on behalf of herself and
all others similarly situated**

CHARLESTON, SC

May 5, 2015