

## Federal Court Issues TRO Requiring Wal-Mart Warehouses to Comply with Law

### Plaintiff Warehouse Workers Found Likely to Prevail on Minimum Wage, Reporting Time Pay, Recordkeeping, and Disclosure Claims

November 1, 2011 – In a victory for Southern California warehouse workers, a federal judge in Los Angeles issued a temporary restraining order on October 31, 2011, requiring three Inland Empire warehouse employers that service retail giant Wal-Mart, immediately to begin complying with state and federal payroll recordkeeping and disclosure law.

Judge Christina Snyder of the U.S. District Court for the Central District of California issued her ruling in a class action lawsuit filed on October 17, 2011 by six low-wage warehouse workers against Impact Logistics, Rogers-Premier Unloading Services, Premier Warehousing Ventures, and Schneider Logistics. The court held that the workers were likely to prevail on their claims that Impact, Rogers-Premier, and Premier violated California and federal law by failing to pay warehouse workers legally required wages for all hours worked, failing to keep accurate records of the workers' hours and piece rate production, and failing to disclose to the workers basic information regarding their hours worked and rates of pay.

Judge Snyder also concluded that the workers would suffer irreparable harm without immediate injunctive relief, while defendant employers would “suffer no hardships other than those associated with bringing their recordkeeping procedures and paycheck information into compliance with state and federal requirements – costs that defendants should already be incurring.” As Judge Snyder explained in her 12-page ruling, the employers' recordkeeping and disclosure violations enable them to “conceal critical pay information” from plaintiffs, and create “a substantial risk that plaintiffs will not be paid in accordance with law. Because plaintiffs are low-wage workers, and lost wages or delays in compensation threaten or impair their ability to meet basic needs, such harms are irreparable.”

According to Altshuler Berzon LLP lead counsel Michael Rubin: “When employers conceal information from workers about their rate of pay and fail to keep accurate records of hours worked, they are more likely to get away with not paying those workers for all of their work. Judge Snyder's order is an important first step in guaranteeing that these workers will now be paid as the law requires.”

“These employees work day in and day out loading and unloading Wal-Mart's products in sweltering heat. The court's order requires these employers to comply with their basic legal obligations to tell their workers how they are being compensated for that hard work,” added Theresa Traber, another attorney representing plaintiffs.

“This order recognizes the irreparable harm suffered by workers, especially low-wage workers, when they are deprived of legally owed wages. The conditions in these warehouses here were particularly extreme, as the workers had no way to know from their paystubs if they were being paid all that was owed them; and the workers who came forward to fight for the rights of their co-workers by filing this lawsuit took brave steps in the face of a campaign of threats and retaliation,” said Janet Herold, who also represents the workers.

The TRO requires Impact, Rogers-Premier, and Premier immediately to begin:

1. Issuing pay stubs to all Mira Loma warehouse workers detailing:
  - a. Gross pay earned
  - b. Total hours worked
  - c. Number of pieces completed
  - d. Rate applied to each piece
  - e. Any applicable hourly rates in effect
  - f. The name and address of the legal entity that is the employer
2. Electronically recording the actual time each worker works, including the time each shift starts (which is when the worker "reports to work") and stops, all meal period time, and every time a worker is assigned a double shift
3. Accurately recording every time a worker is told to report to work but is not put to work or paid, or is given work lasting less than half of the worker's usual shift.

And, for all piece rate workers:

4. Providing each worker with the "piece rate formula, including all information necessary to calculate each employee's pay"
5. Disclosing the rates paid for each trucked loaded or unloaded, including
  - a. An identifying number for each truck
  - b. The date the truck was loaded or unloaded
  - c. The total amount paid to employees for loading or unloading the truck
  - d. If more than one worker shares in a piece rate for a truck, the name and work location of all employees sharing in the piece rate and the share of that piece rate given to each worker
6. Identifying the hours, on a daily basis, each piece rate worker works on a task other than loading or unloading trucks (such as attending meetings, cleaning the warehouse, waiting for trucks to arrive, labeling, or taking rest breaks required by state law).

Judge Snyder also required these three defendants, as well as defendant Schneider Logistics, to appear in federal court at noon on Wednesday, November 9, 2011 to respond further to the workers' claims and to show cause why the court's injunction should not remain in effect until trial.

Plaintiffs are represented by Altshuler Berzon LLP, as well as by Janet Herold, Special Counsel to Change to Win, and Traber & Voorhees of Pasadena. The case name is *Everardo Varrillo v. Schneider Logistics, Inc.*, No. CV 11-8557 CAS (DTBx) (C.D. Cal.).