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**FILED**

APR 15 2009

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY \_\_\_\_\_  
DEPUTY CLERK

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**VICKI WEST,**

Plaintiff,

vs.

**COLVIN OIL COMPANY, dba  
FIREBALL GAS, a foreign corporation,**

Defendant.

Case No. S-07-2073 GGH

**STIPULATION AND  
ORDER REGARDING EXEMPT  
AND NON-EXEMPT TASK  
CLASSIFICATIONS**

Date: April 27, 2009

Time: 8:30 a.m.

Judge: Hon. Gregory G. Hollows

Pursuant to this Court's Pretrial Order dated March 27, 2009, the parties, by and through their undersigned counsel of record, hereby submit the following Stipulation Regarding Exempt and Non-Exempt Task Classifications. The parties hereby stipulate as follows:

A. That all of the following tasks shall be classified as Exempt Work Tasks for trial purposes:

1. Interviewing job applicants and hiring employees;
2. Training employees on job functions, company policies and procedures;
3. Distributing and assigning other employees' work tasks;
4. Schedule other employees' work hours and shifts;

5. Appraise and evaluate employees' productivity and job performance;
6. Provide feedback to employees on all aspects of their job performance;
7. Handle and resolve employees' complaints and grievances;
8. Counsel, discipline and reprimand employees;
9. Terminate employees' employment;
10. Monitor and attempt to ensure that employees receive all meal and rest breaks including the following: (1) communicating with employees about their meal and rest breaks; (2) reviewing employee time records; and (3) watching and monitoring employees to ensure that meal and rest breaks are properly taken;
11. Exercising discretion to determine the location of products and type of products to be sold in the store
12. Organize and maintain employee files;
13. Attend manager meetings at corporate office;
14. Meet and confer with store's assistant manager regarding employee performance, store operations and company policies and procedures and
15. Meet and confer with Colvin Oil's supervisors and managers regarding employee performance, store operations and company policies and procedures.

B. That all of the following tasks shall be classified as Non-Exempt Work Tasks for trial purposes:

1. Cashiering / Making sales to customers;
2. Cleaning;
3. Stocking products;
4. Front facing products;
5. Bagging Ice;
6. Performing maintenance work of any kind;
7. Making coffee;
8. Performing routine inventory counts;
9. Talking with other employees, supervisors or vendors about issues other than employee performance, store operations or company policies and procedures and

10. Checking in vendors.

C. That the Court will need to determine the proper classification of all the following tasks as either Exempt or Non-Exempt for trial purposes. The parties will submit further briefing regarding whether the tasks identified below should be properly classified as either Exempt or Non-Exempt work tasks for trial purposes:

1. Completing routine paperwork or bookwork;
2. Invoicing;
3. Performing the same type of work as other hourly employees, except for training purposes;
4. Driving to the bank to drop off the deposit / pick up change;
5. Retrieving merchandise from other stores;
6. Performing customer service;
7. Develop and maintain professional relationships with suppliers and vendors;
8. Complete, review and submit company reports;
9. Organize and maintain company records;
10. Organize and maintain company records;
11. Analyze daily sales and expense information; and
12. Budget and forecast profit and loss information.

Dated: April 6, 2009

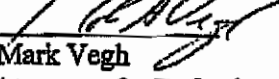
MCINERNEY & JONES

By:

Charles A. Jones  
Attorneys for Plaintiff

1 Dated: April 6, 2009

CARR, KENNEDY, PETERSON & FROST

2  
3 BY:   
4 Mark Vegh  
5 Attorneys for Defendant

6  
7 ORDER

8 IT IS SO ORDERED.

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10 Dated: April 14, 2009

  
11 GREGORY G. HOLLOWS

12 United States Magistrate Judge  
13 Honorable Gregory G. Hollows  
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28 STIPULATION AND [PROPOSED] ORDER REGARDING EXEMPT AND NON-EXEMPT TASK  
CLASSIFICATIONS