

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

SCOTT NANCE and FREDERICK  
FREEDMAN, an individual, on behalf of  
themselves, all others similarly situated, and  
the general public,

Plaintiffs,

v.

MAY TRUCKING COMPANY, an Idaho  
corporation; DOES 1 through 100,

Defendant(s).

Case No. 3:12-cv-01655-HZ

JUDGMENT

HERNÁNDEZ, District Judge:

This action was filed by Plaintiffs, on behalf of themselves and all others similarly situated, for minimum wage violations under the Fair Labor Standards Act (“FLSA”) and

Oregon law, improper deduction of wages, and penalty wages for failure to pay wages upon termination. The Court certified the following Classes in its June 10, 2013 Opinion and Order (doc. #92):

- A. FLSA Class: all over the road drivers employed by Defendant three years prior of the court's conditional certification.
  1. FLSA Entry Level Driver Subclass: all FLSA Class members who participated in the ELD Program.
- B. Oregon Class: all over the road drivers who were dispatched from Defendant's facilities in Oregon beginning February 14, 2005 (six years prior to filing date of case).
  1. Oregon ELD Subclass: all Oregon Class members who participated in the ELD Program.
  2. Oregon § 652.150 Subclass: all Oregon Class members who were terminated during the Oregon Class period.

The Court denied certification of the proposed Oregon Deduction Subclass, consisting of all Oregon Class members who had idling time deducted from their wages. The Court's findings in its June 10, 2013 Opinion and Order (doc. #92) are incorporated herein.

In its January 15, 2014 Opinion and Order (doc. #145), the Court granted Defendant's motion for summary judgment. The Court ruled in favor of Defendant on the first cause of action, brought by Plaintiffs, the FLSA Class, and the FLSA ELD Subclass, for violations of the Fair Labor Standards Act, 29 U.S.C. § 206, and on the second cause of action, brought by Plaintiffs, the Oregon Class, and the Oregon ELD Subclass, for violation of Oregon minimum wage laws, ORS §§ 653.025 and 653.055. The Court denied Plaintiff's motion for partial summary judgment. The Court's findings in its January 15, 2014 Opinion and Order (doc.

#145) are incorporated herein.

On remand from the Ninth Circuit Court of Appeals, this Court reviewed its January 15, 2014 Opinion & Order to determine whether Plaintiffs preserved argument based on a claim for minimum wages before April 2011. The Court concluded that the arguments had not been preserved (doc. # 203).

Plaintiff Freedman tried his third claim for improper deductions under ORS § 652.610 and his fourth claim for penalty wages for failure to pay wages upon termination under ORS § 652.140 to the Court, on an individual basis, on March 19, 2014. The Court issued its Findings of Fact and Conclusions of Law (doc. #178), which are incorporated herein, on May 20, 2014. The Court held that Defendant improperly deducted a portion of Plaintiff Freedman's wages in violation of ORS § 652.610, but Defendant did not willfully fail to pay Plaintiff Freedman all wages due upon termination in violation of ORS § 652.150. The Court held that Plaintiff Freedman is awarded \$200 in damages, costs, and reasonable attorney fees.

Pursuant to the Court's above referenced orders:

1. Judgment is entered against Plaintiffs, the FLSA Class, and the FLSA Entry Level Driver Subclass on the first cause of action in Third Amended Complaint.
2. Judgment is entered against Plaintiffs, the Oregon Class, and the Oregon ELD Subclass on the second cause of action in the Third Amended Complaint.
3. Judgment is entered against Plaintiffs and the Oregon § 652.150 Subclass on the fourth cause of action in the Third Amended Complaint.

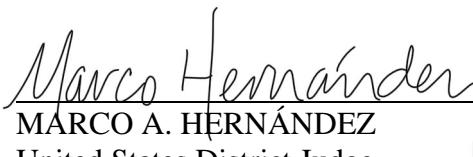
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4. Judgment is entered in favor of Plaintiff Frederick Freedman on the third cause of action in the Third Amended Complaint. Plaintiff Freedman is awarded a judgment in the amount of \$200 in damages, plus costs and reasonable attorney fees.

DATED this 13 day of November, 2017.

  
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MARCO A. HERNÁNDEZ  
United States District Judge