

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

JASON ANDERSON, WILLIE DAVIS, SHANE MALASPINA,)
NICOLE CAMPBELL, JAMIE ADAMS, JAMES HERMES)
and KIMBERLY BEDDINGFIELD ,)

Plaintiffs)

v.)

CINRAM, INC.,)

Defendant.)

CIVIL ACTION NO. .

CV-06-J-1108-NE

NOTICE OF PENDING FAIR LABOR STANDARDS ACT LAWSUIT

To: Present and Former Employees of Cinram, Inc. who were paid on an hourly basis from the period January 18, 2004, to the present.

Re: Overtime claims against Cinram, Inc.

I. INTRODUCTION

The purpose of this Notice is to inform you of the existence of a collective action lawsuit alleging unpaid overtime, to advise you of how your rights may be affected by this suit, and to instruct you on the procedure for participating in this suit, should you decide that you wish to do so.

II. DESCRIPTION OF THE LAWSUIT On June 7, 2006, a lawsuit was filed in the United States District Court for the Northern District of Alabama against Cinram, Inc. ("Cinram") by Jason Anderson, Willie Davis, and Shane Malaspina ("Plaintiffs"), on behalf of themselves and other hourly paid employees of Cinram employed at the facility in Huntsville, Alabama.

This lawsuit alleges that Cinram violated the Fair Labor Standards Act ("FLSA") by failing to pay hourly employees one and one-half times their regular hourly rate for hours worked in excess of 40 in a work week. Plaintiffs allege that Cinram would round up by as much as 15 minutes at the beginning of each shift and would round down by as much as 15 minutes at the end of each work day in order to avoid paying hourly employees for all hours worked. Further, Plaintiffs allege that Cinram would take 30 minutes per shift for lunch, whether the full thirty minute lunch was taken or not by its employees. Plaintiffs allege that throughout their employment, they were required to work off the clock (in other words performing work for which they were not paid) in terms of lunch breaks (not being paid for time actually worked), and before and after shift work and for 1 ½ times their work on Sundays. Plaintiffs allege they and other potential class members are entitled to recover unpaid overtime at one and one half times their regular hourly rate for hours worked in excess of 40 in a work week. Plaintiffs also seek an additional equal amount as liquidated damages, (double back pay) and/or prejudgment interest, attorneys' fees, and costs.

Cinram contends that all employees were paid properly for all hours actually worked. Cinram expressly denies that it engaged in unlawful conduct with respect to the named Plaintiffs and the class members and asserts that hourly employees were properly paid in accordance with the FLSA.

The Court has not ruled on the merits of the Plaintiffs' claims or on the denials and other defenses raised by Cinram.

III. COMPOSITION OF THE CLASS

Plaintiffs seek to recover damages against Cinram on behalf of themselves and also on behalf of the other hourly paid employees of Cinram, past and present. The Court has ruled that the lawsuit shall be conditionally maintained as a collective action brought by the named Plaintiffs, individually and on behalf of the class members. The Court's ruling rests on its preliminary determination that there may be other employees of Cinram who are similarly situated and who desire to join or opt-in to the lawsuit. Specifically, the Court has conditionally certified a class consisting of the following:

All hourly employees of Cinram who performed work in excess of 40 hours in a work week for any week from June 7, 2003, to present, and who were not paid 1- ½ times their regular hourly rate for all hours worked in excess of 40 in a work week, including monies owed as a result of Cinram's rounding practices.

You can participate if you worked for Cinram as an hourly paid employee at the Huntsville facility at any point in time from January 18, 2004, to the present, and worked over forty (40) hours in a work week and were not paid for one and one-half your regular hourly rate for hours worked in excess of 40 in a work week. Just as is true in any lawsuit, participation does not mean that the named Plaintiffs or anyone opting into the collective action is, by participation alone, entitled to recover against Cinram.

IV. YOUR RIGHT TO PARTICIPATE IN THIS SUIT

If you fit the definition of the class described above, you may join this suit or "opt in" by returning in the enclosed envelope or by mailing by First Class mail, postage prepaid, a completed and signed "Consent to Become Party Plaintiff" form postmarked on or before March 31, 2007, to Plaintiffs' counsel at the following address:

Arendall & Associates
2018 Morris Avenue, Suite 300
Birmingham, Alabama 35203
Email: dra@arendalllaw.com
Website: Arendalllaw.com
Facsimile: 205.252.1556

Adam M. Porter
Law Office of Adam Porter
2301 Morris Ave, Ste 102
Birmingham, AL 35203
Facsimile - 205.322.8915

Further information about this Notice, the deadline for filing a "Consent to Become Party Plaintiff," or questions concerning this lawsuit, may be obtained by visiting the special website link at Arendalllaw.com or by faxing or writing Plaintiffs' counsel at the number and address stated above for Arendall & Associates.

Failure to timely return or to properly complete and sign the Consent to Become Party Plaintiff form by the above date will result in your not being able to participate in this lawsuit.

The law prohibits retaliation against anyone participating in a lawsuit of this nature.

Even if you file a "Consent to Become a Party Plaintiff" form, your continued right to participate in this suit may depend upon a later decision by the District Court that you and the Plaintiffs are actually "similarly situated" in accordance with federal law.

V. EFFECT OF JOINING THIS SUIT: If you choose to join this suit, you will be bound by the judgment, whether it is favorable or unfavorable. While this suit is proceeding, you may be required to provide information, appear for deposition, and/or testify in court.

VI. NO OPINION EXPRESSED AS TO THE MERITS OF THE CASE

This notice has been authorized by Judge Johnson of the United States District Court for the Northern District of Alabama solely for the purpose of notifying individuals of the lawsuit. The court has taken no position in this case regarding the merits of the plaintiffs' claims or defenses of Cinram. This notice should not be taken as an indication that you should or should not join this lawsuit.

VII. FURTHER INFORMATION

The pleadings and other documents of record in this lawsuit may be examined and copied at any time during regular business hours at the office of the Clerk of the United States District Court for the Northern District of Alabama located at the Hugo Black United States Courthouse, 1729 5th Avenue North, Birmingham, Alabama.

Cinram is represented by:

Balch & Bingham, LLP
c/o Jeff Starling, Esq.
1710 Sixth Avenue North
Birmingham, AL 35203