

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION

JAMES T. BRADLEY and GARRET LAMBERT,

In their own right and on behalf of others

Similarly situated;

Plaintiffs,

v.

CIVIL ACTION NO 2:18-cv-00007

Honorable Judge _____

LEGACY LAND MANAGEMENT, INC.,

Defendant.

COMPLAINT

1. The Plaintiff James T. Bradley is a resident of Fayette, County West Virginia. The Plaintiff Garret Lambert is a resident of Crab Orchard, West Virginia.
2. The Defendant Legacy Land Management, Inc. ("Legacy" hereinafter) is a West Virginia Corporation licensed to do business in West Virginia and doing business in West Virginia.
3. Under 36 U.S.C. § 1331, this Court has original jurisdiction as the Plaintiffs have brought claims under the Fair Labor Standards Act. This Court has personal jurisdiction over Legacy as it is a domestic corporation conducting business in this State and within the geographic boundaries of this Court's jurisdiction. As such, venue is proper in this Court under the provisions of 28 U.S.C. § 1391(b)(1), (c)(2).
4. At all relevant times, Plaintiffs and others like them were employed by Legacy. Bradley is a management employee and Lambert was an hourly employee.

5. On December 6, 2017, each of the named Plaintiffs were issued a paycheck for wages earned. Bradley was also given a check for his monthly stipend for a truck allowance.
6. Plaintiffs deposited their checks in their respective bank accounts on that same date.
7. On that same date both checks bounced, causing bad check fees to be charged against plaintiffs' accounts.
8. On December 8, 2017, Legacy wired to the Plaintiffs wages owed them by the bad checks deposited on December 6, 2017. Plaintiff Bradley was never paid the truck allowance check for \$600.00. Plaintiffs and other employees were charged a wire transfer fee for this payment.
9. On December 20, 2017, the Plaintiffs were given paychecks for wages earned. Plaintiffs deposited said checks in their accounts and those checks bounced, costing the Plaintiffs another returned check fee. Legacy again wired the Plaintiffs their pay in the same manner as set forth above. Plaintiffs again incurred bad check fees and/or wire transfer fees.
10. Plaintiffs were issued paychecks on December 29, 2017 for wages earned. Upon information and belief these checks and the checks for all other co-workers have not cleared and banks have placed 7 day holds on all Legacy payroll checks. As such Plaintiffs and their co-workers do not have access to their salary.
11. Legacy is an "Employer" as that term is defined by the West Virginia Wage Payment and Collection Act, ("WVWPCA") W.Va. Code § 21-5-1 et. seq., and the Fair Labor Standards Act, ("FLSA") 29 USC § 201, et. seq. *See* W.Va. Code § 21-5-1; 29 USC § 203,

12. Plaintiff and his co-workers are “Employees” as that term is defined by the WVWPCA, W.Va. Code § 21-5-1, and FLSA, 29 U.S.C. § 203.
13. Legacy has violated the terms of the aforementioned Acts by failing to issue proper payments to employees including Plaintiff and his co-workers.
14. Defendants acts set forth above were intentional, willful, wanton, and malicious.
15. Plaintiffs and their co-workers have suffered and continue to suffer harm as a result of Legacy’s failure to pay its Employees’ wages earned and owing.

CLASS ACTION ALLEGATIONS

Plaintiff incorporates and restates all of the above and further pleads:

16. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs bring this action against Defendant, individually, and on behalf of a class of all West Virginia residents against who were due wages under the West Virginia Wage Payment and Collection Act and Fair Labor Standards Act whom were paid by a check drawn on an account that, at the time the checks were written, did not have sufficient funds to cover all of the checks written on the account.
17. Upon information and belief, the members of the class number are in the hundreds, possibly thousands and, as such, are too numerous to be practicably joined.
18. There are numerous questions of law or fact common to the class including the resolution of the factual and legal claims raised herein.
19. The claims of the named Plaintiff are typical of the claims of the class.
20. The named Plaintiff and his undersigned counsel will fairly and adequately protect the interests of the class.

21. The prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the Defendant.
22. The Defendant has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.
23. The questions of law or fact common to the members of the class predominate over any questions affecting only individual members.
24. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendant and for the Plaintiffs and the Class on the Complaint providing for the following:

1. Compensatory damages for the Defendant's general and special damages set forth above;
2. The statutory, liquidated, and treble damages provided for in the West Virginia Wage Payment and Collection Act and the Fair Labor Standards Act respectively;
3. Punitive damages for the intentional, willful, wanton, oppressive, malicious and/or reckless conduct of the Defendant;
4. An award of interest, costs, and attorney fees;
5. All other relief determined by the Court to be just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

PLAINTIFFS

BY COUNSEL

/s Anthony J. Majestro

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Counsel for the Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
James T. Bradley and Garrett Lambert
(b) County of Residence of First Listed Plaintiff Fayette
(c) Attorneys (Firm Name, Address, and Telephone Number)
Anthony M. Salvatore (WVSB 7915), 204 North Court St, Fayetteville, WV 25840, 304-574-0272 and Anthony J. Majestro (WVSB 5165), 405 Capitol St, Ste P-1200, Charleston, WV, 304-346-2889

DEFENDANTS
Legacy Land Management Incorporated
County of Residence of First Listed Defendant McDowell
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Fair Labor Standards Act, ("FLSA") 29 USC § 201, et. seq.
Brief description of cause:
failure to pay wages timely under Fair Labor Standards Act, ("FLSA") 29 USC § 201, et. seq.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 01/03/2018 SIGNATURE OF ATTORNEY OF RECORD s/Anthony J. Majestro

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Employees Claim Legacy Land Management Issued Bad Paychecks](#)
