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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JASON CARPENTER,

Plaintiff,

v.

ALLPOINTS COURIER SERVICE, INC.,

Defendant

Case No 1:17-CV-02043 (JBS)(AMD)

**ANSWER TO PLAINTIFF'S
COMPLAINT**

Defendant ALLPOINTS COURIER SERVICE INC. by its undersigned counsel, Greenwald Doherty, LLP, states as its Answer to the Complaint of Plaintiff JASON CARPENTER ("Carpenter" or "plaintiff").

JURISDICTION AND VENUE

1. Defendant admits the allegations in Paragraph 1 of the Complaint.
2. Defendant admits that the Court has discretion to assert pendant jurisdiction over the state law claims, as alleged in Paragraph 2 of the Complaint.
3. Defendant admits the allegations in Paragraph 3 of the Complaint.

PARTIES

4. Defendant denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 4 of the Complaint.

5. The allegations in Paragraph 5 of Plaintiff's Complaint purport to state a legal conclusion to which no response is required. To the extent this paragraph contains any factual allegations, Defendant denies the allegations in Paragraph 5 of Plaintiff's Complaint, but admit that Plaintiff was employed by Defendant.

6. Defendant admits the allegations in Paragraph 6 of the Complaint.

7. The allegations in Paragraph 7 of Plaintiff's Complaint purport to state a legal conclusion to which no response is required. To the extent this paragraph contains any factual allegations, Defendant denies the allegations as stated in Paragraph 7 of Plaintiff's Complaint.

FACTS

8. Defendant admits the allegations in Paragraph 8 of the Complaint.

9. Defendant admits the allegations in Paragraph 9 of the Complaint.

10. Defendant denies the allegations as stated Paragraph 10 of the Complaint, but admit that Defendant paid Plaintiff a base hourly wage of \$14.00.

11. Defendant denies the allegations as stated in Paragraph 11 of the Complaint.

12. Defendant denies the allegations as stated in Paragraph 12 of the Complaint, but admits that drivers working out of the Swedesboro, NJ facility were required to report to the yard at the beginning of each shift.

13. Defendant denies the allegations as stated in Paragraph 13 of the Complaint.

14. Defendant denies the allegations as stated in Paragraph 14 of the Complaint.

15. Defendant denies the allegations as stated in Paragraph 15 of the Complaint.

16. Defendant denies the allegations as stated in Paragraph 16 of the Complaint.

17. Defendant denies the allegations as stated in Paragraph 17 of the Complaint.

18. Defendant denies the allegations as stated in Paragraph 18 of the Complaint.

19. Defendant denies the allegations as stated in Paragraph 19 of the Complaint.

20. Defendant denies the allegations as stated in Paragraph 20 of the Complaint.

21. Paragraph 21 is a conclusion of law to which no responsive pleading is required.

To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation contained in Paragraph 21 of the Complaint.

COLLECTIVE AND CLASS ALLEGATIONS

22. Paragraph 22 is a statement of Plaintiff's legal claim to which no responsive pleading is required. To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation in Paragraph 22 of the Complaint.

23. Paragraph 23 is a conclusion of law to which no responsive pleading is required. To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation contained in Paragraph 23 of the Complaint.

24. Paragraph 24 is a statement of Plaintiff's legal claim to which no responsive pleading is required. To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation contained in Paragraph 24 of the Complaint.

25. Paragraph 25 is a conclusion of law to which no responsive pleading is required. To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation in Paragraph 25 of the Complaint.

26. Paragraph 26 is a conclusion of law to which no responsive pleading is required. To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation in Paragraph 26 of the Complaint.

27. Paragraph 27 is a conclusion of law to which no responsive pleading is required. To the extent this paragraph contains any factual allegations, Defendant denies each and every factual allegation in Paragraph 27 of the Complaint.

28. Defendant denies knowledge sufficient to form a belief regarding the allegations in Paragraph 28 of Plaintiff's Complaint.

29. Paragraph 29 is a conclusion of law to which no responsive pleading is required. To the extent this Paragraph contains any factual allegations of the Complaint, Defendant denies each and every factual allegation in Paragraph 29 of the Complaint.

30. Paragraph 30 is a conclusion of law to which no responsive pleading is required. To the extent this paragraph contains any factual allegations of the Complaint, Defendant denies each and every factual allegation in Paragraph 30 of the Complaint.

COUNT 1
(Alleging Violations of the FLSA)

31. Defendant repeats and incorporates by reference their responses to Paragraphs 1 through 30 of Plaintiff's Complaint.

32. Paragraph 32 is a conclusion of law to which no responsive pleading is required. To the extent this Paragraph contains any factual allegations of the Complaint, Defendant denies the allegations as stated in Paragraph 32 of the Complaint.

33. Defendant denies the allegations in Paragraph 33 of Plaintiff's Complaint.

34. Paragraph 34 is a conclusion of law to which no responsive pleading is required. To the extent this Paragraph contains any factual allegations, Defendant denies the allegations as stated in Paragraph 34 of the Complaint.

**COUNT II
(Alleging Violations of the FLSA)**

35. Defendant repeats, reiterates and re-avers their responses to Paragraphs 1 through 34 of Plaintiff's Complaint.

36. Paragraph 36 is a conclusion of law to which no responsive pleading is required. To the extent this Paragraph contains any factual allegations, Defendant denies the allegations as stated in Paragraph 36 of the Complaint.

37. Paragraph 37 is a conclusion of law to which no responsive pleading is required. To the extent this Paragraph contains any factual allegations, Defendant denies the allegations in Paragraph 37 of the Complaint.

38. Paragraph 38 is a conclusion of law to which no responsive pleading is required. To the extent this Paragraph contains any factual allegations, Defendant denies the allegations in Paragraph 38 of the Complaint.

RESERVATION OF RIGHTS

Defendant reserves the right to amend this Answer and to assert additional defenses and/or supplement, alter or amend the Answer upon completion of appropriate investigation and discovery.

DEFENDANT'S PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully requests the following relief:

- A. Dismissal of all of Plaintiff's claims, with prejudice, and entry of judgment in favor of Defendant;
- B. An award of the costs of defending this action, including reasonable attorneys' fees; and
- C. All other legal and equitable relief that this Court deems just and proper.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint and each and every claim alleged therein fail to state facts sufficient to constitute a cause of action upon which relief may be granted.

Second Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

Third Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Defendant acted in good faith and did not violate any rights that may be secured to Plaintiff under any Federal or State laws, rules or regulations.

Fourth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Plaintiff is not entitled, in whole or in part, to the damages sought in his Complaint.

Fifth Affirmative Defense

Plaintiff's claims are barred as he has been fully compensated for all wages due and owing from Defendant.

Sixth Affirmative Defense

Plaintiff cannot establish that Defendant engaged in willful conduct within the meaning of applicable laws.

Seventh Affirmative Defense

Plaintiff's claims for compensation, in whole or in part, is for non-working time and/or for time spent performing *de minimis* work.

Eighth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

Ninth Affirmative Defense

The extensive variety of legal issues and factual issues related to this matter make individual questions predominate over common questions of fact and law and render the certification of any class or collective action improper under applicable law.

Tenth Affirmative Defense

The claims of the representative party are not typical of the claims of the putative class, rendering the certification of any class or collective action improper under applicable law.

Eleventh Affirmative Defense

The Plaintiff lacks standing with regard to the putative class given the extensive variety of legal and factual issues related to this matter rendering the certification of any class or collective action improper under applicable law.

Twelfth Affirmative Defense

The Plaintiff cannot fairly and adequately protect the interests of the class, rendering the certification of any class or collective action improper under applicable law.

Thirteenth Affirmative Defense

The Plaintiff has alternative, if not superior, remedies available that can provide for the fair and efficient adjudication of the controversy, rendering the certification of any class or collective action improper under applicable law.

Fourteenth Affirmative Defense

The Court should decline to exercise supplemental jurisdiction over Plaintiff's state law class claims because Defendant is a foreign corporation.

Fifteenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by the principles of waiver, misrepresentation and/or estoppel.

Sixteenth Affirmative Defense

There is a statutory bar to one or more of Plaintiff's claims.

Seventeenth Affirmative Defense

Plaintiff's claims are barred by the equitable doctrine of unclean hands.

Eighteenth Affirmative Defense

Defendant did not act with willful indifference to Plaintiff's protected rights.

Nineteenth Affirmative Defense

Plaintiff did not suffer any damages and/or did not suffer any damages attributable to Defendant.

Twentieth Affirmative Defense

Defendant at no time willfully violated any of the laws pursuant to which Plaintiff brought the instant action, therefore barring any claims for attorneys' fees, costs, penalties or liquidated damages.

Twenty First Affirmative Defense

The Complaint fails to properly state a claim upon which prejudgment interest may be awarded, as the damages claimed are not sufficiently certain to allow an award of prejudgment interest.

Twenty Second Affirmative Defense

Plaintiff's Complaint fails to plead the causes of action, in whole or in part, with sufficient particularity.

Dated: August 23, 2017
Orangeburg, NY

GREENWALD DOHERTY LLP

By: s/ Kevin M. Doherty

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I hereby certify that a copy of the foregoing document entitled Answer to Plaintiff's Complaint has been served on counsel for the Plaintiff, by the Court's ECF system, on August 23, 2017:

Andrew Santillo, Esq.
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Dated: Orangeburg, New York
August 23, 2017

Respectfully submitted,

GREENWALD DOHERTY LLP

s/ Kevin M. Doherty

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