

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JONATHAN WOLFE and MARGARET  
HEKLOWSKI, on behalf of themselves and  
similarly situated employees,

Plaintiffs,

v.

TCC WIRELESS, LLC,  
Defendant.

Case No. 1:16-cv-11663  
Judge Ronald A. Guzman

Magistrate Judge Maria Valdez

**NOTICE OF MOTION**

To: Patrice S. Arend  
Jaffe, Raitt, Heuer & Weiss, P.C.  
27777 Franklin Road, Suite 2500  
Southfield, MI 48034

Laura S. Liss  
Patzik, Frank & Samotny Ltd.  
150 S. Wacker Drive, Suite 1500  
Chicago, IL 60606

PLEASE TAKE NOTICE that **May 30, 2017 at 9:30 a.m.**, we shall appear before Judge Guzman in the Courtroom usually occupied by him in the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 South Dearborn Street, Chicago, Illinois, and shall then and there present **Plaintiffs' Motion for Step-One Notice Pursuant to the Fair Labor Standards Act**, a copy of which is attached hereto and hereby served upon you.

Respectfully submitted,

s/Douglas M. Werman  
One of Plaintiffs' Attorneys

Douglas M. Werman  
Maureen A. Salas  
WERMAN SALAS P.C.  
77 West Washington, Suite 1402  
Chicago, Illinois 60602  
(312) 419-1008

Peter Winebrake  
R. Andrew Santillo  
WINEBRAKE & SANTILLO, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491  
*Attorneys for Plaintiffs*

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JONATHAN WOLFE and MARGARET  
HEKLOWSKI, on behalf of themselves and  
similarly situated employees,

Plaintiffs,

v.

TCC WIRELESS, LLC,

Defendant.

Case No. 1:16-cv-11663

Judge Ronald A. Guzman

**PLAINTIFFS' MOTION FOR STEP ONE NOTICE PURSUANT TO THE  
FAIR LABOR STANDARDS ACT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Court-Authorized Notice Pursuant to Section 216(b) of the FLSA, and supporting documents, Plaintiffs respectfully request that the Court enter an Order:

1. granting conditional certification of the proposed collective;
2. ordering Defendant to produce a computer-readable data file containing the names, last known mailing addresses, last known personal and work email addresses, mobile telephone numbers, social security numbers (for those notices returned undeliverable), and work locations for all collective members;
3. authorizing the issuance of notice to all collective members by mail, email and text message, as well as a reminder notice during the opt-in period; and
4. granting such other, further, or different relief as the Court deems just and proper.

Dated: May 25, 2017

Respectfully submitted,

s/Douglas M. Werman

One of the Attorneys for Plaintiffs

Douglas M. Werman  
Maureen A. Salas  
WERMAN SALAS P.C.  
77 West Washington, Suite 1402  
Chicago, Illinois 60602  
(312) 419-1008

Peter Winebrake  
R. Andrew Santillo  
WINEBRAKE & SANTILLO, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491

*Attorneys for Plaintiffs*

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JONATHAN WOLFE and MARGARET  
HEKLOWSKI, on behalf of themselves and  
similarly situated employees,

Plaintiffs,

v.

TCC WIRELESS, LLC,

Defendant.

Case No. 1:16-cv-11663

Judge Ronald A. Guzman

Magistrate Judge Maria Valdez

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR  
STEP-ONE NOTICE PURSUANT TO THE FAIR LABOR STANDARDS ACT**

Douglas M. Werman  
Maureen A. Salas  
WERMAN SALAS P.C.  
77 West Washington, Suite 1402  
Chicago, Illinois 60602  
(312) 419-1008

Peter Winebrake  
R. Andrew Santillo  
WINEBRAKE & SANTILLO, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491

*Attorneys for Plaintiffs*

## **I. INTRODUCTION**

Plaintiffs and the Opt-in Plaintiffs (collectively “Plaintiffs”) worked for Defendant’s T-Mobile retail stores in Illinois, Indiana, New Jersey, Ohio and New York.<sup>1</sup> Plaintiffs claim they and other salaried Managers and Assistant Managers were subjected to a common and illegal practice in the retail industry: classifying low paid employees in small shops as “executives” exempt from the Fair Labor Standards Act (“FLSA”) overtime protections, demanding they work alone or with only one other employee, while requiring them to work many hours in excess of forty (40) in individual weeks with no overtime compensation. Plaintiffs claim this practice violates the FLSA.<sup>2</sup>

As demonstrated below, Plaintiffs satisfy the modest burden to identify a common policy or practice alleged to violate the FLSA. As a result, this Court should grant Plaintiffs’ motion to send notice of this lawsuit to other salaried Managers and Assistant Managers who worked at any of Defendant’s T-Mobile retail stores in the prior three (3) years.

## **II. SUPPORTING FACTS**

### **A. Defendant Does Not Pay Its Retail Managers Overtime, Regardless of the Overtime Hours Defendant Requires Them To Work**

Defendant pays its retail store managers a low annual salary, generally ranging from approximately \$24,000 to \$36,000, plus commission for any sales the managers are credited

---

<sup>1</sup> Defendant resides in Illinois and operates 105 T-Mobile retail stores across eleven states, including in Illinois, Connecticut, Florida, Indiana, Iowa, Massachusetts, New Jersey, New York, Ohio, and Pennsylvania and Rhode Island. Answer to Amended Complaint at ¶¶ 2, 10.

<sup>2</sup> See, e.g., *Perez v. Radioshack Corporation*, 386 F. Supp. 2d 979, 985 (N.D. Ill. 2005)(granting summary judgment for employees who generally worked alone or with one other employee and thus did not regularly direct the work of two or more employees).

with.<sup>3</sup> At least until this lawsuit was filed, Defendant did not pay its retail store managers overtime wages, regardless of the amount of overtime hours it required them to work.<sup>4</sup>

**B. Defendant Requires its Retail Store Managers To Generally Work Alone Or With Only One Other Employee**

Defendant's policy is to keep its T-Mobile retail stores open for 65 to 67 hours per week, but only staff it with two or three (sometimes part time) hourly sales employees in addition to the salaried managers.<sup>5</sup> As a result of Defendant's staffing policy, Plaintiffs usually work alone or

---

<sup>3</sup> Ex. A, Fronek Decl. ¶ 7 (approximately \$26,000 as Assistant Store Manager to \$32,500 as Store Manager); Ex. B, Avila Decl. ¶ 7 (approximately \$24,000 as Assistant Store Manager); Ex. C, Miller Decl. ¶ 7 (\$26,000 as Assistant Store Manager); Ex. D, Russell Decl. (approximately \$24,000 as Assistant Store Manager); Ex. E, Chavez Decl. ¶ 7 (\$36,000 as a store manager, raised to \$42,000 after this lawsuit was filed); Ex. F, Abarca Decl. ¶ 7 (approximately \$26,000, or \$1,000 biweekly as Assistant Store Manager, to \$39,000, or \$1,500 biweekly, as a Store Manager); Ex. G, Alexandre Decl. ¶ 7 (approximately \$26,000 as Assistant Store Manager and approximately \$36,000 as Store Manager); Ex. H, Collenette Decl. ¶ 7 (approximately \$24,000 as an Assistant Store Manager and \$36,000 as a Store Manager); Ex. I, DePalmo Decl. ¶ 7 (\$24,000, or \$2,000 per month, as an Assistant Store Manager); Ex. J, Royster Decl. ¶ 7 (\$24,000 as an Assistant Sales Manager); Ex. K, Wolfe Decl. ¶ 7 (\$36,000 as a store manager).

<sup>4</sup> Ex. A, Fronek Decl. ¶¶ 8, 9; Ex. B, Avila Decl. ¶¶ 8, 9; Ex. C, Miller Decl. ¶¶ 8, 9; Ex. D, Russell Decl. ¶¶ 8, 9; Ex. E, Chavez Decl. ¶¶ 8, 9; Ex. F, Abarca Decl. ¶¶ 8, 9; Ex. G, Alexandre Decl. ¶¶ 8, 9; Ex. H, Collenette Decl. ¶¶ 8, 9; Ex. I, DePalmo Decl. ¶¶ 8, 9; Ex. J, Royster Decl. ¶¶ 8, 9; Ex. K, Wolfe Decl. ¶¶ 8, 9. In or about February or March 2017, shortly after this Lawsuit was filed on December 28, 2016, Plaintiffs learned that Defendant TCC was going to start paying its Assistant Store Managers on an hourly basis and would no longer pay them a salary. Ex. C, Miller Decl. ¶ 10; Ex. D, Russell Decl. ¶ 10; Ex. E, Chavez Decl. ¶ 10; Ex. G, Alexandre Decl. ¶ 10; Ex. H, Collenette Decl. ¶ 10.

<sup>5</sup> Ex. A, Fronek Decl. ¶¶ 2, 3 (Hickory Hills, IL store open approximately 66 hours/week; 2-3 hourly sales employees); Ex. B, Avila Decl. ¶¶ 2, 3 (Orchard Street, Aurora, IL and Kirk Road, Aurora, IL stores open approximately 66 hours/week; 2 part-time hourly sales employees); Ex. C, Miller Decl. ¶¶ 2, 3 (Harlem, NY store open approximately 67 hours/week; 3 hourly sales employees); Ex. D, Russell Decl. ¶¶ 2, 3 (Indianapolis, IN store open approximately 65 hours/week; 2 hourly sales employees); Ex. E, Chavez Decl. ¶¶ 2, 3 (1600 W. 13th Street, Chicago and 754 N. Clark St., Chicago locations open approximately 67 hours/week; 2 hourly sales employees); Ex. F, Abarca Decl. ¶¶ 2, 3 (North Kimball Ave., Chicago, Archer Avenue, Chicago and Roosevelt Road, Chicago locations open approximately 66 hours/week; 2-3 hourly employees); Ex. G, Alexandre Decl. ¶¶ 2, 3 (Brooklyn, NY and New Hyde Park, New York locations open approximately 67 hours per week; 3 hourly employees); Ex. H, Collenette Decl. ¶¶ 2, 3 (Stow, Mentor and Akron OH locations open approximately 65 hours/week; Stow had 2 hourly employees; Mentor between 0-2 hourly employees; for multiple weeks at Akron and Stow locations, only 1 hourly employee); Ex. I, DePalmo Decl. ¶¶ 2, 3 (10<sup>th</sup> and Shadeland, Indianapolis locations open approximately 65 hours/week; one full time hourly sales employee and one part time hourly sales employee); Ex. J, Royster Decl. ¶¶ 2, 3 (Toledo, OH store open approximately 65 hours/week; 2-3 hourly

with only one other store employee.<sup>6</sup>

**C. Defendant Requires Its Retail Store Managers to Work Substantially More Than 40 Hours Each Week**

Defendant requires its retail store managers to work many hours each week to make sure that there is at least one employee working at the store while it is open.<sup>7</sup> Plaintiffs testify that they regularly worked 50 to 55 hours per week, and some weeks as many as 60 to 75 hours.<sup>8</sup>

**D. Defendant's Retail Store Managers Spend Almost No Time Performing Managerial Tasks**

Because of Defendant's policy of sparsely staffing its stores, Plaintiffs were required to spend almost all of their time working directly with customers performing the exact same tasks

---

sales employees); Ex. K, Wolfe Decl. ¶¶ 2, 3 (Cherry Hill, NJ location open approximately 66 hours per week, 2 hourly sales employees).

<sup>6</sup> Ex. A, Fronek Decl. ¶ 4 (worked alone or with only one other store employee approximately 70% of time); Ex. B, Avila Decl. ¶ 4 (worked alone or with only one other store employee well over 50% of time); Ex. C, Miller Decl. ¶ 4 (worked alone or with only one other store employee more than 50% of time); Ex. D, Russell Decl. ¶ 4 (worked alone or with only one other store employee approximately 70% of time); Ex. E, Chavez Decl. ¶ 4 (worked alone or with only one other store employee approximately 75% of time); Ex. F, Abarca Decl. ¶ 4 (worked alone or with only one other store employee well over 50% of time); Ex. G, Alexandre Decl. ¶ 4 (worked alone or with only one other store employee almost all the time); Ex. H, Collenette Decl. ¶ 4 (worked alone or with only one other store employee approximately 50% of time); Ex. I, DePalmo Decl. ¶ 4 (worked alone or with only one other store employee approximately 60% of time); Ex. J, Royster Decl. ¶ 4 (worked alone or with only one other store employee at least 50% of time); Ex. K, Wolfe Decl. ¶ 4 (worked alone or with only one other store employee well over 50% of time)

<sup>7</sup> Ex. A, Fronek Decl. ¶ 6; Ex. B, Avila Decl., ¶ 6; Ex. C, Miller Decl., ¶ 6; Ex. D, Russell Decl., ¶ 6; Ex. E, Chavez Decl. ¶ 6; Ex. F, Abarca Decl. ¶ 6; Ex. G, Alexandre Decl. ¶ 6; Ex. H, Collenette Decl. ¶ 6; Ex. I, DePalmo Decl. ¶ 6; Ex. J, Royster Decl. ¶ 6; Ex. K, Wolfe Decl. ¶ 6.

<sup>8</sup> Ex. A, Fronek Decl. ¶ 6 (55 hours/week, some weeks 60 hours); Ex. B, Avila Decl. ¶ 6 (50-55 hours/week; some weeks 60 hours); Ex. C, Miller Decl. ¶ 6 (50 hours/week, some weeks 65 hours); Ex. D, Russell Decl. ¶ 6 (55 to 60 hours/week, some weeks 70 to 75 hours); Ex. E, Chavez Decl. ¶ 6 (50-55 hours/week, some weeks 70 hours); Ex. F, Abarca Decl. ¶ 6 (approximately 50-60 hours/week, some weeks 70 hours); Ex. G, Alexandre Decl. ¶ 6 (approximately 50-60 hours/week, some weeks more); Ex. H, Collenette Decl. ¶ 6 (approximately 50 hours/week, some weeks 55 hours); Ex. I, DePalmo Decl. ¶ 6 (approximately 50-60 hours/week, some weeks 70 hours); Ex. J, Royster Decl. ¶ 6 (approximately 60 hours/week, some weeks more); Ex. K, Wolfe Decl. ¶ 6 (approximately 55 hours/week, some weeks approximately 60 hours).

as Defendant's hourly sales employees, including sales, technical support, and clerical tasks.<sup>9</sup> For example, Plaintiffs spent most of their work hours performing the following non-managerial tasks: processing customer bill payments and addressing billing questions and issues; processing merchandise returns; demonstrating equipment to customers and teaching them how to use it; and selling equipment to customers.<sup>10</sup> Similarly, managers set up cell phone plans for customers and transferred cell phone contacts from one device to another.<sup>11</sup>

**E. Defendant's Employment Practice Is Consistent Between Its T-Mobile Retail Stores**

Plaintiffs from eighteen of Defendant's stores spread across five states, Illinois, Indiana, New Jersey, New York, and Ohio testify that they regularly worked alone or with one other employee, performing the same non-managerial job duties.<sup>12</sup> Moreover, Plaintiffs from each of these nineteen T-Mobile retail stores testify that they frequently spoke and worked with retail

---

<sup>9</sup> Ex. A, Fronek Decl. ¶ 5 (approximately 90% of time); Ex. B, Avila Decl. ¶ 5 (approximately 85-90% of time); Ex. C, Miller Decl. ¶ 5 (approximately 75% of time); Ex. D, Russell Decl. ¶ 5 (approximately 80% of time); Ex. E, Chavez Decl. ¶ 5 (approximately 75-80% of time); Ex. F, Abarca Decl. ¶ 5 (approximately 75-80% of time); Ex. G, Alexandre Decl. ¶ 5 (approximately 80% of time); Ex. H, Collenette Decl. ¶ 5 (approximately 80% of time); Ex. I, DePalmo Decl. ¶ 5 (approximately 80-90% of time); Ex. J, Royster Decl. ¶ 5 (approximately 75% of time); Ex. K, Wolfe Decl. ¶ 5 (approximately 80% of time).

<sup>10</sup> Ex. A, Fronek Decl. ¶ 5; Ex. B, Avila Decl. ¶ 5; Ex. C, Miller Decl. ¶ 5; Ex. D, Russell Decl. ¶ 5; Ex. E, Chavez Decl. ¶ 5; Ex. F, Abarca Decl. ¶ 5; Ex. G, Alexandre Decl. ¶ 5; Ex. H, Collenette Decl. ¶ 5; Ex. I, DePalmo Decl. ¶ 5; Ex. J, Royster Decl. ¶ 5; Ex. K, Wolfe Decl. ¶ 5.

<sup>11</sup> Ex. B, Avila Decl. ¶ 5; Ex. I, DePalmo Decl. ¶ 5.

<sup>12</sup> Ex. A, Fronek Decl. ¶¶ 1, 4, 5 (Hickory Hills, IL); Ex. B, Avila Decl. ¶¶ 1, 4, 5 (Orchard Street, Aurora IL; Kirk Road, Aurora, IL; and Indian Trail Road, Aurora, IL); Ex. C, Miller Decl. ¶¶ 1, 4, 5 (Harlem, NY and Brooklyn NY); Ex. D, Russell Decl. ¶¶ 1, 4, 5 (Stop 11 Road, Indianapolis, IN); Ex. E, Chavez Decl. ¶¶ 1, 4, 5 (1600 W. 13th Street, Chicago, IL and 754 N. Clark Street, Chicago IL); Ex. F, Abarca Decl. ¶¶ 1, 4, 5 (North Kimball Avenue, Chicago, IL, Archer Avenue, Chicago, IL, and Roosevelt Road, Chicago IL); Ex. G, Alexandre Decl. ¶¶ 1, 4, 5 (Brooklyn, NY and New Hyde Park, NY); Ex. H, Collenette Decl. ¶¶ 1, 4, 5 (Stow, OH, Mentor, OH and Akron, OH); Ex. I, DePalmo Decl. ¶¶ 1, 4, 5 (10<sup>th</sup> and Shadeland, Indianapolis, IN); Ex. J, Royster Decl. ¶¶ 1, 4, 5 (Toledo, OH); Ex. K, Wolfe Decl. ¶¶ 1, 4, 5 (Cherry Hill, NJ).



managers at other TCC locations.<sup>13</sup> The managers at these other retail stores reported the same experience as Plaintiffs: regularly working over 40 hours per week, typically alone or with only one other employee, the overwhelming majority of their time working directly with customers performing sales and customer support.<sup>14</sup> Like the Plaintiffs, the managers at these other retail stores did not receive overtime pay when they worked over 40 hours.<sup>15</sup>

### III. LEGAL STANDARD

Motions for step-one notice have a “low standard of proof.”<sup>16</sup> Courts in the Northern District of Illinois apply a two-step approach to determine if a FLSA claim should proceed as a collective action.<sup>17</sup> This “first step require[es] ‘a *minimal showing* that others in the potential class are similarly situated.’”<sup>18</sup> To carry this burden, the plaintiffs need only “make a *modest factual showing* sufficient to demonstrate that they and potential plaintiffs together were victims of a common policy or plan that violated the law.”<sup>19</sup> As Judge St. Eve recently explained in granting step-one notice in a proposed national FLSA collective action filed on behalf of allegedly misclassified salaried managers:

---

<sup>13</sup> Ex. A, Fronek Decl. ¶ 9; Ex. B, Avila Decl. ¶ 9; Ex. C, Miller Decl. ¶ 9; Ex. D, Russell Decl. ¶ 9; Ex. E, Chavez Decl. ¶ 9; Ex. F, Abarca Decl. ¶ 9; Ex. G, Alexandre Decl. ¶ 9; Ex. H, Collenette Decl. ¶ 9; Ex. I, DePalmo Decl. ¶ 9; Ex. J, Royster Decl. ¶ 9; Ex. K, Wolfe Decl. ¶ 9.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Briggs v. PNC Financial Services Group, Inc.*, No. 15-cv-10447, 2016 WL 1043429, at \* 1 (N.D. Ill. Mar. 16, 2016) (authorizing nationwide notice of FLSA exempt misclassification of managers claim).

<sup>17</sup> *Briggs*, 2016 WL 1043429 at \* 1 (citations omitted); *Sylvester v. Wintrust Fin. Corp.*, No. 12 C 01899, 2013 WL 5433593, at \*2 (N.D. Ill. Sept. 30, 2013) (Tharp, J.) (citations omitted).

<sup>18</sup> *Briggs*, 2016 WL 1043429 at \* 2 (citations omitted; emphasis added); *cf. Sylvester*, 2013 WL 5433593 at \*3.

<sup>19</sup> *Id.*

Significantly, at this initial stage, “[t]he court does not make merits determinations, weigh evidence, determine credibility, or specifically consider opposing evidence presented by a defendant.”<sup>20</sup>

Rather, only at step two, after the opt-in period closes and discovery is complete, does the court apply a more stringent standard and determines whether to “revoke conditional certification or divide the class into subclasses.”<sup>21</sup> As the Middle District of Pennsylvania explained in granting step-one notice to a much larger and geographically diverse FLSA collective action involving thousands of Assistant Store Managers who allegedly were misclassified as overtime-exempt:

The burden in this preliminary certification [stage] is light because the risk of error is insignificant: should further discovery reveal that the named positions, or corresponding claims, are not substantially similar the defendants will challenge the certification and the court will have the opportunity to deny final certification.<sup>22</sup>

#### IV. ARGUMENT

##### A. Defendant’s Salaried Retail Store Managers Are Not Exempt Under FLSA Because Defendant Staffs Its Stores So Thinly that Managers Do Not Supervise Two or More Employees And Managerial Tasks Are Not Their Primary Duty.

Because the FLSA is a remedial statute, an employer who seeks to raise an exception to the provisions of the Act bears the burden of proving its entitlement.<sup>23</sup> It is at all times the burden of the employer to prove that the exemption it has claimed is applicable to a given job or employee.

---

<sup>20</sup> *Briggs*, 2016 WL 1043429, at \*2, citing *Bergman v. Kindred Healthcare, Inc.*, 949 F. Supp. 2d 852, 855-56 (N.D. Ill. 2013)(citation omitted); see also *Larsen v. Clearchoice Mobility, Inc.*, No. 11 C 1701, 2011 WL 3047484, at \*1 (N.D. Ill. July 25, 2011) (“[T]he court does not resolve factual disputes or decide substantive issues going to the merits.”); *Nehmelman v. Penn Nat’l Gaming, Inc.*, 822 F. Supp. 2d 745, 751 (N.D. Ill. 2011) (“[T]he court does not consider the merits of a plaintiff’s claims, or witness credibility”).

<sup>21</sup> *Sylvester*, 2013 WL 5433593, at \*3 (citations omitted).

<sup>22</sup> *Craig v. Rite Aid Corp.*, No. 08-cv-2317, 2009 WL 4723286, at \*2 (M.D. Pa. Dec. 9, 2009).

<sup>23</sup> *Arnold v. Ben Kanowsky, Inc.*, 361 U. S. 388, 392 (1960).

*See Bankston v. State of Illinois*, 60 F. 3d 1249, 1252 (7th Cir. 1995); *Magana v. North Mariana Islands*, 107 F. 3d 1436 (9th Cir. 1997); *Clark v. J.M. Benson Co.* 789 F. 2d 282, 286 (4th Cir. 1986); *Smith v. Heartland Automotive Services*, 418 F. Supp. 2d 1129 (D. Minn 2006); *Gilstrap v. Synalloy Corporation*, 409 F. Supp. 621 (M.D. La. 1976).

An employer may not lawfully classify a retail store manager as an “executive” exempt from FLSA’s overtime protections unless it establishes that the employee “customarily and regularly directs the work of two or more other employees.”<sup>24</sup> The two full time (or part time equivalents) that are purportedly being supervised by a so called “executive” must work a combined 80 hours per week.<sup>25</sup> Moreover, “a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement.”<sup>26</sup> The manager’s supervision time must also account for at least 80% of the manager’s time for the employer to establish the manager is subject to the “executive” exemption.<sup>27</sup>

Likewise, in order to establish that its salaried T-Mobile retail store managers are exempt from FLSA’s overtime protections pursuant to the “administrative” exemption, Defendant must prove that: (1) Plaintiffs’ *primary duty* is the “performance of office or non-manual work directly

---

<sup>24</sup> 29 C.F.R. §541.100.

<sup>25</sup> 29 C.F.R. §541.104(a); *Secretary of Labor v. Daylight Dairy Products, Inc.*, 779 F. 2d 784 (1st Cir. 1985); *Perez v. Radioshack Corporation*, 386 F. Supp. 2d 979, 985 (N.D. Ill. 2005); *see also Rubery v. Buth-NA-Bodhaige, Inc.*, 470 F. Supp. 2d 273 (W.D.N.Y. 2007); *Herman v. Harmelech*, No. 93-3458, 2000 WL 420839, \*7 (N.D. Ill. April 14, 2000).

<sup>26</sup> 29 C.F.R. §541.104(d); *Gorman v. Continental Can Co.*, No. 76 C 908, 1985 WL 5208, at \*6 (N.D. Ill. Dec. 31, 1985) (A *shared responsibility* for the *supervision* of the same two or more employees in the same department does not satisfy the requirement that the employee “customarily and regularly directs the work of two or more employees therein”) (emphasis added).

<sup>27</sup> Eighty percent is consistent with the “Supreme Court’s mandate that “FLSA exemptions are to be narrowly construed against . . . employers””. *Perez, supra*, citing *Auer v. Robbins*, 519 U.S. 452, 462 (1997). *See also Arnold v. Ben Kanowsky, Inc.*, 361 U.S. 388, 392 (1960).

related to management policies or general business operations of her employer or her employer's customers"; *and* (2) that Plaintiffs' *primary duty* includes the exercise of discretion and independent judgment with respect to matters of significance.<sup>28</sup> The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee.<sup>29</sup>

**B. Plaintiffs Have Satisfied The Modest Factual Showing Required To Issue Notice To Defendant's T-Mobile Retail Store Salaried Managers**

Plaintiffs claim that Defendant violated the overtime provisions of the FLSA by improperly classifying its T-Mobile retail store salaried managers as exempt, requiring them to work more than forty hours per week, and failing to pay them overtime. Plaintiffs have supported their claims with sworn declarations from ten former retail store managers who worked at nineteen (19) different T-Mobile retail stores across five states, and testify regarding their personal knowledge of Defendant's policies and practices.<sup>30</sup> Those declarations demonstrate that Defendant does not pay their salaried retail store managers overtime, although they regularly require them to work more than forty hours per week.<sup>31</sup> The declarations further show that as a

---

<sup>28</sup> 29 C.F.R. §541.200(a)(2) and (3) (emphasis added).

<sup>29</sup> 29 C.F.R. §541.700(b).

<sup>30</sup> Ex. A, Fronek Decl. ¶ 1 (worked at Hickory Hills, IL); Ex. B, Avila Decl. ¶ 1 (worked at three Aurora IL locations: Orchard Street, Kirk Road, and Indian Trail Road locations); Ex. C, Miller Decl. ¶ 1 (worked at Harlem, NY and Brooklyn NY); Ex. D, Russell Decl. ¶ 1 (worked at Stop 11 Road, Indianapolis, IN); Ex. E, Chavez Decl. ¶ 1 (worked at two Chicago IL locations: 1600 W. 13th Street, Chicago, IL and 754 N. Clark Street locations); Ex. F, Abarca Decl. ¶ 1 (worked at three Chicago, IL locations: North Kimball Avenue, Archer Avenue, and Roosevelt Road); Ex. G, Alexandre Decl. ¶ 1 (worked at two New York locations: Brooklyn and New Hyde Park); Ex. H, Collenette Decl. ¶ 1 (worked at three Ohio locations: Stow, Mentor, and Akron, OH); Ex. I, DePalmo Decl. ¶ 1 (worked at 10<sup>th</sup> and Shadeland, Indianapolis, IN); Ex. J, Royster Decl. ¶ 1 (worked at Toledo, OH); Ex. K, Wolfe Decl. ¶ 1 (worked at Cherry Hill, NJ).

<sup>31</sup> Ex. A, Fronek Decl. ¶¶ 6, 8; Ex. B, Avila Decl. ¶¶ 6, 8; Ex. C, Miller Decl. ¶¶ 6, 8; Ex. D, Russell Decl. ¶¶ 6, 8; Ex. E, Chavez Decl. ¶¶ 6, 8; ); Ex. F, Abarca Decl. ¶¶ 6,8; Ex. G, Alexandre Decl. ¶¶ 6,8;

result of Defendant's policy of thinly staffing its retail stores, the salaried retail store managers usually worked alone or with only one other employee.<sup>32</sup> Accordingly, Defendant could not lawfully classify declarants as FLSA exempt "executives" since they did not regularly supervise two or more employees.<sup>33</sup> Similarly, the declarations demonstrate that the majority of Plaintiffs' time was spent performing non-managerial, clerical, technical support and sales activities, exactly the same tasks performed by the hourly retail store employees.<sup>34</sup> Thus, Defendant could not properly classify declarants under the "administrative" exemption, since their primary duty was not managerial.<sup>35</sup>

The declarations further show that Defendant's salaried managers at other T-Mobile retail stores were likely misclassified as FLSA exempt, given that declarants testify that they

---

Ex. H, Collenette Decl. ¶¶ 16,8; Ex. I, DePalmo Decl. ¶¶ 6,8; Ex. J, Royster Decl. ¶¶ 6,8; Ex. K, Wolfe Decl. ¶¶ 6,8.

<sup>32</sup> Ex. A, Fronek Decl. ¶ 4 (worked alone or with only one other store employee approximately 70% of time); Ex. B, Avila Decl. ¶ 4 (worked alone or with only one other store employee well over 50% of time); Ex. C, Miller Decl. ¶ 4 (worked alone or with only one other store employee more than 50% of time); Ex. D, Russell Decl. ¶ 4 (worked alone or with only one other store employee approximately 70% of time); Ex. E, Chavez Decl. ¶ 4 (worked alone or with only one other store employee approximately 75% of time); Ex. F, Abarca Decl. ¶ 4 (worked alone or with only one other store employee well over 50% of time); Ex. G, Alexandre Decl. ¶ 4 (worked alone or with only one other store employee almost all the time); Ex. H, Collenette Decl. ¶ 4 (worked alone or with only one other store employee approximately 50% of time); Ex. I, DePalmo Decl. ¶ 4 (worked alone or with only one other store employee approximately 60% of time); Ex. J, Royster Decl. ¶ 4 (worked alone or with only one other store employee at least 50% of time); Ex. K, Wolfe Decl. ¶ 4 (worked alone or with only one other store employee well over 50% of time).

<sup>33</sup> See Section II. A., *supra*.

<sup>34</sup> Ex. A, Fronek Decl., ¶ 5 (approximately 90% of time); Ex. B, Avila Decl. ¶ 5 (approximately 85-90% of time); Ex. C, Miller Decl. ¶ 5 (approximately 75% of time); Ex. D, Russell Decl. ¶ 5 (approximately 80% of time); Ex. E, Chavez Decl. ¶ 5 (approximately 75-80% of time); Ex. F, Abarca Decl. ¶ 5 (approximately 75-80% of time); Ex. G, Alexandre Decl. ¶ 5 (approximately 80% of time); Ex. H, Collenette Decl. ¶ 5 (approximately 80% of time); Ex. I, DePalmo Decl. ¶ 5 (approximately 80-90% of time); Ex. J, Royster Decl. ¶ 5 (approximately 75% of time); Ex. K, Wolfe Decl. ¶ 5 (approximately 80% of time).

<sup>35</sup> See Section II. A., *supra*.

frequently spoke and worked with retail managers at other TCC locations.<sup>36</sup> The managers at these other retail stores reported the same experience as Plaintiffs: regularly working over 40 hours per week, typically alone or with only one other employee, and spending the overwhelming majority of their time working directly with customers performing sales and customer support.<sup>37</sup> Like the Plaintiffs, the managers at these other retail stores did not receive overtime pay when they worked over 40 hours.<sup>38</sup>

This evidence is more than sufficient to meet Plaintiffs' modest factual burden at FLSA step one, as demonstrated by decisions granting step-one notice in other FLSA misclassification cases in the Northern District of Illinois.<sup>39</sup> Moreover, applying the lenient legal standard described above, federal district courts around the country frequently grant step-one certification in FLSA lawsuits challenging an employer's business practice of classifying a particular job position as exempt from the FLSA's overtime premium protections.<sup>40</sup> The Court should likewise

---

<sup>36</sup> Ex. A, Fronek Decl. ¶ 9; Ex. B, Avila Decl. ¶ 9; Ex. C, Miller Decl. ¶ 9; Ex. D, Russell Decl. ¶ 9; Ex. E, Chavez Decl. ¶ 9; Ex. F, Abarca Decl. ¶ 9; Ex. G, Alexandre Decl. ¶ 9; Ex. H, Collenette Decl. ¶ 9; Ex. I, DePalmo Decl. ¶ 9; Ex. J, Royster Decl. ¶ 9; Ex. K, Wolfe Decl. ¶ 9.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *See Briggs*, 2016 WL 1043429, at \*4 (granting step-one notice to nationwide class of assistant branch managers based in part on declarations from five former assistant branch managers); *Tamas v. Family Video Movie Club*, No. 11 C 1024, 2013 WL 4080649, at \*1-3 (N.D. Ill. Aug. 13, 2013) (granting step-one notice to class of salaried store managers and managers in training at stores throughout the United States based in part on declarations from six former managers ); *see also Salmans v. Byron Udell & Assocs., Inc.*, No. 12-cv-3452, 2013 WL 707992 (N.D. Ill. Feb. 26, 2013); *Betancourt v. Maxim Healthcare Servs., Inc.*, No. 10-cv-4763, 2011 WL 1548964 (N.D. Ill. Apr. 21, 2011).

<sup>40</sup> *See, e.g., Rivera v. McCoy Corp.*, No. 15-cv-003, 2015 U.S. Dist. LEXIS 100007 (D.N.M. July 30, 2015); *Fischer v. Kmart Corp.*, No. 13-cv-4116, 2014 WL 3817368 (D.N.J. Aug. 4, 2014); *Puglisi v. TD Bank, N.A.*, 998 F. Supp. 2d 95 (E.D.N.Y. 2014); *Stallard v. Fifth Third Bank*, No. 12-cv-1092, 2013 U.S. Dist. LEXIS 186531 (W.D. Pa. Dec. 12, 2013); *Snodgrass v. Bob Evans Farms, LLC*, No. 2-cv-768, 2013 WL 6388558 (S.D. Ohio Dec. 5, 2013); *Goodman v. Burlington Coat Factory*, No. 11-cv-4395, 2012 WL 5944000 (D.N.J. Nov. 20, 2012); *Stevens v. HMSHost Corp.*, 10-cv-03571, 2012 WL 4801784 (E.D.N.Y. Oct. 10, 2012); *Ferreira v. Modell's Sporting Goods, Inc.*, No. 11-cv-2395, 2012 WL

authorize notice in this case.

**C. The Court Should Adopt Plaintiffs' Proposed Form of Section 16(b) Notice and Plaintiffs' Notice Program**

Courts in this judicial district conclude that “[a]bsent reasonable objections by either the defendant or the Court, plaintiffs should be allowed to use the language of their choice in drafting the notice.”<sup>41</sup> “The only thing that matters to the Court is that the notice of lawsuit and consent form convey accurately and fairly all the necessary information at this stage.”<sup>42</sup>

Plaintiffs’ proposed notice and consent forms, attached as Exhibit L are accurate, simple to understand, and convey all information necessary at this stage. Plaintiffs seek to send the notice and consent forms to Defendant’s T-Mobile salaried retail store managers via regular U.S.

---

2952922 (S.D.N.Y. July 16, 2012); *Ruffin v. Avis Budget Car Rental, LLC*, 2012 U.S. Dist. LEXIS 89651 (D.N.J. June 28, 2012); *Jacob v. Duane Reade, Inc.*, No. 11-cv-160, 2012 WL 260230 (S.D.N.Y. Jan. 27, 2012); *Bell v. Citizens Financial Group, Inc.*, No. 10-cv-320, 2010 WL 3463300 (W.D. Pa. Sept. 2, 2010); *Craig v. Rite Aid Corp.*, No. 08-cv-2317, 2009 WL 4723286 (M.D. Pa. Dec. 9, 2009); *Stillman v. Staples, Inc.*, No. 07-cv-849, 2008 WL 1843998 (D.N.J. Apr. 22, 2008); *Damassia v. Duane Reade, Inc.*, No. 04-cv-8819, 2006 WL 2853971 (S.D.N.Y. Oct. 5, 2006)

<sup>41</sup> *Sylvester*, 2013 WL 5433593, at \*6.

<sup>42</sup> *Id.*



mail, email,<sup>43</sup> text message,<sup>44</sup> and a case dedicated website.<sup>45</sup> Plaintiffs also request Defendant produce social security numbers (for those notices returned undeliverable), and work locations for all collective members Plaintiffs further request to send a reminder mailing to all potential opt-in plaintiffs half-way through the notice period.<sup>46</sup> Courts regularly authorize distribution of

---

<sup>43</sup> *Watson v. Jimmy John's LLC*, 15 cv 6010, 2016 WL 106333, at \*1 (N.D. Ill. Jan. 5, 2015) (in FLSA collective action, stating that “communication [of opt-in notices] through email is the norm” and that “allowing email notice will facilitate, rather than complicate, the notice process ...”); *Espenscheid v. DirecStat USA, LLC*, No. 09-cv-625, 2010 WL 2330309, at \*13-15 (W.D. Wis. June 7, 2010) (approving Plaintiff’s request for notifying potential class members by email).

<sup>44</sup> *Irvine v. Destination Wild Dunes Mgmt., Inc.*, 132 F.Supp.3d 707, 711 (D.S.C. 2015) (“The request that notice be distributed via direct mail, email and text messaging appears eminently reasonable to the Court. This has become a much more mobile society with one’s email address and cell phone number serving as the most consistent and reliable method of communication. Political candidates now routinely seek out their supporters’ cell phone numbers and email addresses because traditional methods of communication via regular mail and land line telephone numbers quickly become obsolete.”); *Dempsey v. Jason’s Premier Pumping Services, LLC*, No. 1:15-cv-703, 2015 WL 13121134, at \*2 (D. Colo. Nov. 11, 2015) (granting text message notice); *Regan v. City of Hanahan*, 2017 WL 1386334, 2:16-cv-1077, at \*3 (D.S.C. Apr. 17, 2017) (“Mail, email and text message notice is reasonable because, in today’s mobile society, individuals are likely to retain their mobile numbers and email addresses even when they move.”); *Landry v. Swire Oilfield Servs.*, No. 16-621, 2017 WL 1709695, at \*39-40 (D.N.M. May 2, 2017) (granting text message notice); *Martin v. Sprint/united Mgmt. Co.*, No. 15–CV–5237, 2016 WL 30334, at \*19 (S.D.N.Y. Jan. 4, 2016) (same); *Bhumithanarn v. 22 Noodle Mkt. Corp.*, No. 14-cv-2625, 2015 WL 4240985, at \*5 (S.D.N.Y. July 13, 2015) (same); *Vasto v. Credico (USA) LLC*, 2016 WL 2658172 (S.D.N.Y. May 5, 2016) (same); *Eley v. Stadium Grp., LLC*, Civil Action No. 14–cv–1594 (KBJ), 2015 WL 5611331, at \*4 (D.D.C. Sept. 22, 2015) (granting request for text message notice because the request was “in line with what has been approved in other FLSA collective actions”) (citing *Bhumithanarn*, 2015 WL 4240985, at \*5).

<sup>45</sup> “As with email, communication through websites is common.” *Knox v. Jones Grp.*, 208 F. Supp. 3d 954, 964 (S.D. Ind. 2016), *on reconsideration in part*, No. 15-cv-1738 SEB TAB, 2016 WL 6083526 (S.D. Ind. Oct. 18, 2016).

<sup>46</sup> *Knox v. Jones Grp.*, 208 F. Supp. 3d 954, 964 (S.D. Ind. 2016), *on reconsideration in part*, No. 15-cv-1738-SEB-TAB, 2016 WL 6083526 (S.D. Ind. Oct. 18, 2016) (authorizing reminder notice); *Soto v. Wings 'R US Romeoville, Inc.*, No. 15-CV-10127, 2016 WL 4701444, at \*9 (N.D. Ill. Sept. 8, 2016) (same); *Deatrick v. Securitas Sec. Servs. USA, Inc.*, No. 13-cv-05016, 2014 WL 5358723 (N.D. Cal. Oct. 20, 2014) (granting plaintiff’s request to issue reminder postcards); *Miller v. Fleetcor Tech. Oper. Co., LLC*, No. 13-CV-02403 (N.D. Ga. Apr. 8, 2014); *Boyd v. Bank of Am. Corp.*, 2013 WL 6536751, \*4 (C.D. Cal. Dec. 11, 2013) (approving a reminder notice); *Ramirez v. Ghilotti Bros, Inc.*, 941 F. Supp. 2d 1197, 1121 (N.D. Cal. Apr. 25, 2013) (authorizing a second notice, substantially the same as the first, as a reminder 45 days after the first notice); *Alexander v. CYDCOR, Inc.*, No. 11-cv-1578, 2012 WL 1142449, at \*9 (N.D. Ga. Apr. 6, 2012) (authorizing two subsequent additional mailings after the initial notice mailing); *Jennings v. Celco P’ship*, No. 12-cv-293, 2012 WL 2568146, at \*6 (D. Minn. July 2, 2012);



notice through these methods.

## V. CONCLUSION

Because Plaintiffs satisfied their modest factual burden, this Court should grant their Motion for Step-One Notice Pursuant to the FLSA.

Dated: May 25, 2017

Respectfully Submitted,

By: s/Douglas M. Werman  
One of Plaintiffs' Attorneys

---

*Hargrove v. Ryla Teleservs., Inc.*, 2012 WL 463442, at \*1 (E.D. Va. Feb. 13, 2012); *Sanchez v. Sephora USA, Inc.*, No. 11-cv-3396, 2012 WL 2945753, at \*6 (N.D. Cal. July 18, 2012) (finding a second notice or a reminder appropriate in an FLSA action since the individual is not part of the class unless he or she opts-in); *Helton v. Factor 5, Inc.*, No. 10-cv-4927, 2012 WL 2428219, at \*7 (N.D. Cal. June 26, 2012) (ordering a reminder postcard be sent to potential plaintiffs 30 days before deadline for opting in); *Gee v. Suntrust Mortg., Inc.*, No. 10-cv-1509, 2011 WL 722111, at \*4 (N.D. Cal. Feb. 18, 2011); *Harris v. Vector Mktg. Corp.*, 716 F. Supp. 2d 835, 847 (N.D. Cal. 2010); *Oliver v. Aegis Commc'ns Group, Inc.*, No. 08-cv-828, 2008 WL 7483891, at \*4 (N.D. Tex. Oct. 30, 2008).

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JONATHAN WOLFE and MARGARET  
HEKLOWSKI, on behalf of themselves and  
similarly situated employees,  
Plaintiffs,

v.  
TCC WIRELESS, LLC,  
Defendant.

Case No. 1:16-cv-11663  
Judge Ronald A. Guzman  
Magistrate Judge Maria Valdez

**INDEX OF EXHIBITS TO PLAINTIFFS' MEMORANDUM OF LAW  
IN SUPPORT OF THEIR MOTION FOR STEP-ONE NOTICE PURSUANT  
TO THE FAIR LABOR STANDARDS ACT**

|   |   |
|---|---|
| Declaration of Margaret Heklowski (Fronek)..... | A |
| Declaration of Claudia Avila .....              | B |
| Declaration of Tahiem Miller .....              | C |
| Declaration of Cameron Russell .....            | D |
| Declaration of Gerardo Chavez .....             | E |
| Declaration of Alberto Abarca, Jr. ....         | F |
| Declaration of Gregory Alexandre.....           | G |
| Declaration of Frank Collenette.....            | H |
| Declaration of Anthony Dipalmo.....             | I |
| Declaration of Phillip Royster .....            | J |
| Declaration of Jonathan Wolfe .....             | K |
| Proposed Notice and Consent Form .....          | L |

# **EXHIBIT A**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Margaret Heklowski (Fronek), declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

1. From approximately the end of 2013 until approximately February 2015, I was employed by TCC Wireless, LLC (“TCC”) as a retail manager at its T-Mobile store located in Hickory Hills, Illinois. From approximately the end of 2013 until approximately the end of 2014, I was an Assistant Store Manager (“ASM”) at the Hickory Hills store. From approximately the end of 2014 until January 2015, I was the Store Manager (“SM”) at the Hickory Hills store.

2. The TCC stores that I worked at were regularly open approximately 66 hours a week. The regular business hours for the store was Mondays through Fridays 10:00 am to 8:00 pm, Saturdays 10:00 am to 7:00 pm, and Sundays 11:00 am to 6:00 pm.

3. TCC typically staffed these stores with few employees. For example, while I was an ASM at the Hickory Hills store, we only had a salaried SM and two to three hourly sales employees assigned to that location in addition to myself.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee approximately 70% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks, exactly the same tasks that were performed by the store's hourly sales employees. Examples of these tasks included: upgrading customer equipment, taking bill payments from customers, addressing issues with customer bills, handling returns of merchandise, demonstrating to customers how to use equipment, and selling equipment to customers. I spent approximately 90% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked approximately 55 hours per week, and some weeks I worked as many as 60 hours.

7. Throughout my employment as a retail manager for TCC, I was paid a salary plus commissions based on the T-Mobile products I was credited with selling. As an ASM I was paid an annual salary of approximately \$26,000.00, while I was paid an annual salary of approximately \$32,500.00 as a SM.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store

either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE  
AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION,  
AND BELIEF.**

4/21/2017

**Date**

DocuSigned by:

*Margaret Heklowski*

957D1F92FC2941C...

**Signature**

# **EXHIBIT B**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Claudia Avila, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

2. The TCC stores that I worked at were regularly open approximately 66 hours a week. The regular business hours at each location was Mondays through Friday 10:00 am to 8:00 pm, Saturday 10:00 am to 7:00 pm, and Sunday 11:00 am to 6:00 pm.



3. TCC typically staffed these stores with few employees. For example, TCC only assigned two part-time hourly sales employees to the Orchard Street location and to the Kirk Road location besides myself, the ASM.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee more than 50% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks. Examples of these tasks included: waiting on store customers, setting up cell phone plans for customers, transferring cell phone contacts from one device to another, answering customer questions about items on their bill, processing merchandise returns, helping customers troubleshoot their new equipment, and teaching customers how to use their newly purchased cell phone equipment. I spent approximately 85-90% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked between approximately 50 and 55 hours per week, and some weeks I worked as many as 60 hours.

7. Throughout my employment as a retail manager for TCC, I was paid a monthly salary of approximately \$2,000.00 plus commissions based on the T-Mobile products I was credited with selling.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

4/21/2017

**Date**

DocuSigned by:  
  
508EC70EECCB41F...  
**Signature**

# **EXHIBIT C**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|  |   |  |
|--|---|--|
| <p>JONATHAN WOLFE and MARGARET<br/>HEKLOWSKI, on behalf of themselves and<br/>similarly situated employees,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>TCC WIRELESS, LLC,</p> <p style="text-align: right;">Defendant.</p> | <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> | <p>1:16-cv-11663</p> <p>Judge Ronald A. Guzman</p> |
|--|---|--|

**DECLARATION OF TAHIEM MILLER**

I, Tahiem Miller, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

1. From approximately January 2016 until approximately April 17, 2017, I was employed by TCC Wireless, LLC (“TCC”) as a retail manager at one of its T-Mobile stores. From approximately January 2016 until approximately August 2016, I was an Assistant Store Manager (“ASM”) at the TCC store located in Harlem, New York. From approximately August 2016 until approximately April 17, 2017, I was an ASM at the TCC store located in Brooklyn, New York.

2. The TCC stores that I worked at were regularly open approximately 67 hours a week. For example, the regular business hours at these two locations were Mondays through Saturdays 10:00 am to 8:00 pm and Sundays 11:00 am to 6:00 pm.

3. TCC typically staffed these stores with few employees. For example, while I was an ASM at the Harlem store, we only had a salaried Store Manager (“SM”) and three hourly sales employees in addition to myself assigned to that location.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee during well over 50% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks. Examples of these tasks included: making sales, dealing with returns of merchandise, answering customer questions about their bills, showing customers how to use their devices, and troubleshooting customer devices. I spent approximately 75% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked approximately 50 hours per week, and some weeks I worked as many as 65 hours.

7. As an ASM, I was paid a salary of \$26,000.00 a year plus commissions based on the T-Mobile products I was credited with selling.

8. As an ASM, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

10. In March 2017, I learned that TCC was going to start paying its ASMs an hourly wage plus overtime when they worked over 40 hours in a week. TCC would no longer pay the ASMs a salary.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

4/20/2017

**Date**

DocuSigned by:



97F8393808E3483...

**Signature**

# **EXHIBIT D**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Cameron Russell, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

2. The TCC store that I worked at was typically open approximately 65 hours a week. The regular business hours were Mondays through Saturdays 10:00 am to 8:00 pm and Sunday noon to 5:00 pm.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee for approximately 70% of the hours I worked as an ASM for TCC.



5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks. Examples of these tasks included: selling phones and related equipment, demonstrating to customers how to use certain equipment, dealing with returns of merchandise, and answering customer questions about items on their bills. I spent approximately 80% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked between approximately 55 and 60 hours per week, and some weeks I worked as many as approximately 70 to 75 hours.

7. Throughout my employment as a retail manager for TCC, I was paid a salary of approximately \$2,000.00 per month plus commissions based on the T-Mobile products I was credited with selling.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

10. Right before I stopped working for TCC in the Spring 2017, I was told that the company was going to start paying its ASMs on an hourly basis and would no longer pay them a salary.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

4/21/2017

**Date**

DocuSigned by:

*Cameron Russell*

70E233A38B70490...

**Signature**

# **EXHIBIT E**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Gerardo Chavez, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

2. The TCC stores that I worked at were regularly open approximately 67 hours a week. For example, the regular business hours at these stores were Mondays through Fridays 10:00 am to 8:00 pm, Saturdays 10:00 am to 7:00 pm, and Sundays 11:00 am to 7:00 pm.

3. TCC typically staffed these stores with few employees. For example, while I was an ASM at the 1600 West 13th Street store, we only had a SM and two hourly sales employees in

addition to myself. When I returned to the 1600 West 13th Street store as an SM, we only had an ASM and two hourly sales employees in addition to myself.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee during approximately 75% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks, exactly the same tasks that were performed by the stores' hourly sales employees. Examples of these tasks included: selling equipment to customers, handling customer returns, helping customers with their bills, assisting customers with bill payments, and answering customer questions about equipment. I spent approximately 75-80% of my time each day performing these tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked between approximately 50 and 55 hours per week, and some weeks I worked as many as approximately 60 to 70 hours.

7. Throughout my employment as a retail manager for TCC, I was paid a salary plus commissions based on the T-Mobile products I was credited with selling. For example, as an SM I was initially paid an annual salary of \$36,000.00. Shortly before I stopped working for TCC, my annual salary was raised to \$42,000.00.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

10. This past February I was informed that TCC was changing the way it paid ASMs. TCC started paying the ASMs on an hourly basis instead of paying them a salary. The ASMs also became eligible to receive overtime premium pay when they worked over 40 hours in a week.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

4/24/2017

**Date**

DocuSigned by:



E2600A87A90248E...

**Signature**

# **EXHIBIT F**





three hourly sales employees. When I was a SM at the Roosevelt Road store, it was staffed with myself, a salaried ASM and two hourly sales employees.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee during well over 50% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks. Examples of these tasks included: making sales to customers, explaining bills to customers, troubleshooting equipment for customers, demonstrating how to use equipment to customers, creating email addresses on customer devices, and dealing with merchandise returns. I spent approximately 90% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked between approximately 50 and 60 hours per week, and some weeks I worked as many as 70 hours.

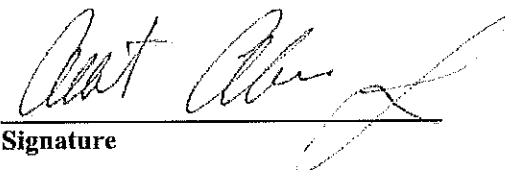
7. Throughout my employment as a retail manager for TCC, I was paid a salary plus commissions based on the T-Mobile products I was credited with selling. For example, as an ASM I was paid a bi-weekly salary of approximately \$1,000.00. As a SM I was paid a bi-weekly salary of approximately \$1,500.00.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE  
AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION,  
AND BELIEF.**

5/2/17  
Date

  
Signature

# **EXHIBIT G**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Gregory Alexandre, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

2. The TCC stores that I worked at were regularly open approximately 67 hours a week. The regular business hours for these stores were Mondays through Saturdays 10:00 am to 8:00 pm and Sundays 11:00 am to 6:00 pm.

3. TCC typically staffed these stores with few employees. For example, while I was an ASM at the Brooklyn store, we had a SM and three hourly sales employees in addition to

myself. Also, after I became the SM of the Brooklyn store, I had an ASM plus three hourly sales employees in addition to myself.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee during almost all of my work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks, exactly the same tasks that were performed by the stores' hourly sales employees. Examples of these tasks included: teaching customers how to use equipment, selling phone plans, answering questions about customer bills, assisting customers with customer care requests and handling merchandise returns. I spent approximately 80% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked between approximately 50 and 60 hours per week, and some weeks I worked more.

7. Throughout my employment as a retail manager for TCC, I was paid a salary plus commissions based on the T-Mobile products I was credited with selling. For example, as an ASM I was paid a yearly salary of approximately \$26,000.00. As a SM I was paid a yearly salary of approximately \$36,000.00.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail

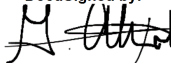
managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

10. This past February or March, I was informed that TCC was changing the way it paid ASMs. TCC started paying the ASMs on an hourly basis instead of paying them a salary.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

4/27/2017

**Date**

DocuSigned by:  
  
AD76303A3FA6478...

**Signature**

# **EXHIBIT H**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Frank Collenette, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

3. TCC typically staffed these stores with few employees. For example, while I was an ASM at the Stow, Ohio location, it was only staffed with myself, a salaried SM, and two



hourly sales employees. When I was an ASM at the Mentor, Ohio store, it was staffed with myself, another salaried ASM and between zero and two hourly sales employees. There were also multiple weeks when I was a SM at the Akron and Stow stores where there was only myself and one other hourly sales employee assigned to those locations.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee approximately 50% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks, exactly the same tasks that were performed by the stores' hourly sales employees. Examples of these tasks included: processing bill payments, answering customer questions, making sales, demonstrating to customers how to use equipment, processing the returns of merchandise, and stocking the store with merchandise. I estimate that I spent approximately 75% to 80% of my time each day performing these tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked approximately 50 hours per week, and some weeks I worked as many as 55 hours.

7. Throughout my employment as a retail manager for TCC, I was paid a salary plus commissions based on the T-Mobile products I was credited with selling. For example, as an ASM I was paid a salary of approximately \$24,000.00 per year. As a SM, I was paid a salary of approximately \$36,000.00 per year.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

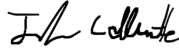
9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

10. Earlier this year, I learned that TCC was changing the way it paid ASMs. TCC started paying the ASMs on an hourly basis instead of paying them a salary.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

5/4/2017

**Date**

DocuSigned by:  
  
49340833E7DB455

**Signature**

# **EXHIBIT I**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Anthony DiPalmo, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

2. The TCC store that I worked was regularly open approximately 65 hours a week. The regular business hours were Mondays through Saturdays 10:00 am to 8:00 pm and Sunday noon to 5:00 pm.

3. TCC typically staffed these stores with few employees. For example, while I was an ASM, we only had one additional full-time hourly sales employee and one additional part-time hourly sales employee assigned to that location.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with

only one other store employee during approximately 60% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks. Examples of these tasks included: dealing with customer sales, processing store returns, checking-in UPS shipments of equipment to the store, setting up cell phone plans for customers, answering customer questions about items on their bill, installing equipment such as screen protectors on customer cell phones, and teaching customers how to use their newly purchased cell phone equipment.. I spent approximately 80-90% of my time each day performing these types of tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked between approximately 55 and 60 hours per week, and some weeks I worked as many as 70 hours.

7. Throughout my employment as a retail manager for TCC, I was paid a salary of \$2,000.00 per month plus commissions based on the T-Mobile products I was credited with selling.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke with retail managers at other TCC locations. Based on these conversations, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also

spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF.**

5/12/2017

**Date**

DocuSigned by:

*Anthony Dipalmo*

6A43F832AE904AB...

**Signature**

# **EXHIBIT J**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Phillip Royster, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

2. The Central Avenue store was typically open approximately 65 hours a week, with regular business hours of Monday through Saturday 10:00 am to 8:00 pm and Sundays noon to 5:00 pm.

4. As a result of the way TCC staffed these stores, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee at least 50% of my total work hours as a TCC retail manager.



5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks, exactly the same tasks that were performed by the stores' hourly sales employees. Examples of these tasks included: processing bill payments, addressing customer tech support issues, selling new equipment to customers, processing returns, and performing product demonstrations for customers. I spent approximately 75% of my time each day performing these tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked approximately 60 hours per week, and some weeks I worked more.

7. Throughout my employment as an ASM for TCC, I was paid an annual salary of \$24,000.00 plus commissions based on the T-Mobile products I was credited with selling.

8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE  
AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION,  
AND BELIEF.**

5/8/2017

**Date**

DocuSigned by:



B3385909DC3D4E9

**Signature**

# **EXHIBIT K**

|  |   |                        |
|--|---|------------------------|
|  | : |                        |
| JONATHAN WOLFE and MARGARET            | : |                        |
| HEKLOWSKI, on behalf of themselves and | : |                        |
| similarly situated employees,          | : | 1:16-cv-11663          |
| Plaintiffs,                            | : |                        |
| v.                                     | : | Judge Ronald A. Guzman |
|  | : |                        |
| TCC WIRELESS, LLC,                     | : |                        |
| Defendant.                             | : |                        |
|  | : |                        |

I, Jonathan Wolfe, declare, subject to penalty of perjury, that the following information is true and correct to the best of my personal knowledge, information, and belief:

4. As a result of the way TCC staffed this store, I usually was required to work either alone or with only one other store employee. I estimate that I worked either alone or with only one other store employee during well over 50% of my total work hours as a TCC retail manager.

5. Because I was regularly working either alone or with just one other person, I spent almost all of my time in the store working directly with customers performing sales and support related tasks, exactly the same tasks that were performed by the store's hourly sales employees. Examples of these tasks included: selling equipment to customers, helping customers to understand their equipment, helping customers with their bills and handling returns of merchandise. I spent approximately 80% of my time each day performing these tasks.

6. As a retail manager, I was also required to work many hours each week to make sure that there was at least one employee working at the store while it was open. I regularly worked approximately 55 hours per week and sometimes as many as approximately 60 hours in a week.

7. Throughout my employment as a retail manager for TCC, I was paid an annual salary of \$36,000.00 plus commissions based on the T-Mobile products I was credited with selling.

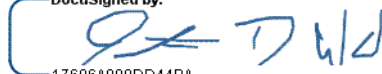
8. As a retail manager for TCC, I did not receive any overtime pay when I worked over 40 hours in a week.

9. While I was employed by TCC, I frequently spoke and worked with other retail managers at other TCC locations. Based on these interactions, I learned that other retail managers were also regularly working over 40 hours in a week and were typically in the store either alone or with just one other store employee. As a result of the way TCC staffed their stores, they were also spending the overwhelming majority of their time working directly with store customers performing sales and customer support tasks. Like me, these retail managers did not receive overtime pay when they worked over 40 hours.

**I DECLARE, SUBJECT TO PENALTY OF PERJURY, THAT THE ABOVE IS TRUE  
AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE, INFORMATION,  
AND BELIEF.**

5/22/2017

**Date**

DocuSigned by:  
  
17606A008DD44BA...  
**Signature**

# **EXHIBIT L**

***Wolfe v. TCC Wireless, LLC, No. Case No. 1:16-cv-11663***  
**(N.D. Ill.)**

**NOTICE OF LAWSUIT**

**1. What is this Notice about?**

This Notice is about a lawsuit that you may choose to join.

**2. What is the lawsuit about?**

The lawsuit is about whether assistant managers and managers who worked at T Mobile retail stores operated by TCC Wireless, LLC (“TCC”) were paid all earned overtime wages. Jonathan Wolfe, who worked as a manager at a T Mobile retail store in Cherry Hill, NJ and Margaret Heklowski (formerly Margaret Fronek), who worked as an assistant manager and later a manager at T Mobile retail stores in Hickory Hills and Chicago, IL, filed this lawsuit against TCC (the “Company”).

The lawsuit claims that the Company violated federal and Illinois minimum wage law by not paying assistant managers and managers overtime when they worked more than 40 hours per week. The Company denies the allegations in the lawsuit.

**3. Why did I get this Notice?**

You got this Notice because the Company identified you as an assistant manager or manager that worked for one of the Company’s T Mobile retail stores during the last three years, the time period covered by this lawsuit.

**4. How do I join the lawsuit?**

You can join the lawsuit multiple ways. You can complete the enclosed/attached Consent to Join form and mail in the pre-paid envelope, email to [INSERT EMAIL], or fax to [INSERT FAX]. Or, you can sign the Consent to Join form that was sent to you by email and/or text and submit it electronically through DocuSign. Your lawyers, identified in Paragraph 9, will file your Consent to Join form with the Court, so please review it before you sign.

**5. When do I need to submit the Consent to Join form to join the lawsuit?**

To join the lawsuit, you must postmark or return the Consent to Join form by **[insert date 60 days from mailing date]**. If you do not postmark or return the Consent to Join form by **[insert date 60 days from mailing date]**, you may not be able to join the lawsuit.

**6. What happens if I join the lawsuit?**

If you join this lawsuit, you will be bound by its outcome. This means that if the assistant managers and managers win the lawsuit or obtain a settlement, you may receive a payment. If the assistant managers or managers lose the lawsuit, you will not receive any money.

**7. What happens if I decide not to join the lawsuit?**

If you do not join the lawsuit, you will not be bound by its outcome. This means that regardless of the result in this lawsuit, you are free to file your own lawsuit, either on your own behalf or through an



attorney.

**8. Can the Company retaliate against me for joining this lawsuit?**

No. Federal law prohibits the Company from firing you or taking any adverse action against you because you decided to join the lawsuit.

**9. Who will be my lawyers if I join the lawsuit, and how will the lawyers be paid?**

If you join the lawsuit, you will be represented by Peter Winebrake and members of his firm, Winebrake & Santillo, LLC, and Douglas M. Werman and members of his law firm, Werman Salas P.C. and any of their associated attorneys (contact information in Paragraph 11).

The lawyers representing the assistant managers and managers will only be paid if they win the lawsuit or obtain a settlement. If either happens, the lawyers may receive their fees and costs from the Company and/or may receive a percentage of any money awarded by the Court or obtained through a settlement. If the assistant managers and managers lose the lawsuit, you will not have to pay your lawyers.

**10. How will I know if I joined the lawsuit?**

Your lawyers will contact you to confirm you joined the case. If you are not contacted in a reasonable period of time, please contact Mr. Werman or Mr. Winebrake (contact information in Paragraph 11).

**11. How do I get more information about the lawsuit?**

If you have questions about this Notice or the lawsuit, please write, call, or e-mail Douglas M. Werman or Peter Winebrake. Mr. Werman's and Mr. Winebrake's contact information is listed below.

**Peter Winebrake  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
Phone: (215) 885-2491  
Email: [INSERT EMAIL]**

**Douglas M. Werman  
Werman Salas P.C.  
77 W. Washington, Suite 1402  
Chicago, IL 60602  
Phone: (312) 419-1008  
Email: [INSERT EMAIL]**

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS. THE COURT HAS TAKEN NO POSITION ON THE MERITS OF THIS LAWSUIT.

PLEASE DO NOT CALL OR WRITE THE JUDGE IN THIS LAWSUIT. THE JUDGE CANNOT ANSWER QUESTIONS ABOUT THIS LAWSUIT OR THIS NOTICE.

attorney.

**8. Can the Company retaliate against me for joining this lawsuit?**

No. Federal law prohibits the Company from firing you or taking any adverse action against you because you decided to join the lawsuit.

**9. Who will be my lawyers if I join the lawsuit, and how will the lawyers be paid?**

If you join the lawsuit, you will be represented by Peter Winebrake and members of his firm, Winebrake & Santillo, LLC, and Douglas M. Werman and members of his law firm, Werman Salas P.C. and any of their associated attorneys (contact information in Paragraph 11).

The lawyers representing the assistant managers and managers will only be paid if they win the lawsuit or obtain a settlement. If either happens, the lawyers may receive their fees and costs from the Company and/or may receive a percentage of any money awarded by the Court or obtained through a settlement. If the assistant managers and managers lose the lawsuit, you will not have to pay your lawyers.

**10. How will I know if I joined the lawsuit?**

Your lawyers will contact you to confirm you joined the case. If you are not contacted in a reasonable period of time, please contact Mr. Werman or Mr. Winebrake (contact information in Paragraph 11).

**11. How do I get more information about the lawsuit?**

If you have questions about this Notice or the lawsuit, please write, call, or e-mail Douglas M. Werman or Peter Winebrake. Mr. Werman's and Mr. Winebrake's contact information is listed below.

**Peter Winebrake  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
Phone: (215) 885-2491  
Email: [INSERT EMAIL]**

**Douglas M. Werman  
Werman Salas P.C.  
77 W. Washington, Suite 1402  
Chicago, IL 60602  
Phone: (312) 419-1008  
Email: [INSERT EMAIL]**

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS. THE COURT HAS TAKEN NO POSITION ON THE MERITS OF THIS LAWSUIT.

PLEASE DO NOT CALL OR WRITE THE JUDGE IN THIS LAWSUIT. THE JUDGE CANNOT ANSWER QUESTIONS ABOUT THIS LAWSUIT OR THIS NOTICE.

### CONSENT TO JOIN

I agree to join the lawsuit *Wolfe v. TCC Wireless, LLC* to pursue owed wages under the Fair Labor Standards Act (“the Lawsuit”).

I select Winebrake & Santillo, LLC and Werman Salas P.C., and any of their associated attorneys, to represent me in the Lawsuit.

Name: \_\_\_\_\_ (print your name)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**You may return this form by:** mail to [ADDRESS], email to [EMAIL ADDRESS], fax to [FAX NUMBER], or electronically through DocuSign with the link sent to you by email.

**\*\*\*Note: This Lower Portion Will Not Be Filed With the Court\*\*\***

Cell phone number: \_\_\_\_\_ Home phone: number: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Email: \_\_\_\_\_

Location(s) where you worked: \_\_\_\_\_

Position(s) you held: \_\_\_\_\_

Approximate dates of employment: \_\_\_\_\_