

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

JOY EBERLINE, CINDY ZIMMERMAN,
And TRACY POXSON, individually and
on behalf of all others similarly situated,

Plaintiffs,

Case No. _____

Hon. _____

v.

DOUGLAS J. HOLDINGS, INC.,
DOUGLAS J. AIC, INC., DOUGLAS J.
INSTITUTE, INC., DOUGLAS J.
EXCHANGE, INC., SCOTT A. WEAVER,
TJ WEAVER, and KRISTI E. BERNHARDT,

Complaint
Class Action

Defendants.

John C. Philo (P52721)
Anthony D. Paris (P71525)
**SUGAR LAW CENTER
FOR ECONOMIC & SOCIAL JUSTICE**
4605 Cass Ave., 2nd Floor
Detroit, Michigan 48201
(313) 993-4505/Fax: (313) 887-8470
jphilo@sugarlaw.org
tparis@sugarlaw.org
Attorneys for Plaintiffs

Julie H. Hurwitz (P34720)
William H. Goodman (P14173)
GOODMAN & HURWITZ PC
1394 E. Jefferson Ave.
Detroit, Michigan 48207
(313) 567-6170/Fax: (313) 567-4827
jhurwitz@goodmanhurwitz.com
bgoodman@goodmanhurwitz.com
Attorneys for Plaintiffs

Leon Greenberg, Esq.*
2965 South Jones Boulevard #E-4
Las Vegas, Nevada 89146
(702) 383-6085/ Fax: (702) 385-1827
leongreenberg@overtimelaw.com
Attorney for Plaintiffs
*Not currently admitted to ED Mich.
Application to be submitted.

COMPLAINT & JURY DEMAND

NOW COME Plaintiffs, on behalf of themselves and all others similarly situated, by and through their attorneys and for their Complaint, do hereby allege as follows.

I. NATURE OF PLAINTIFFS' CLAIMS

1. This lawsuit arises under the Fair Labor Standards Act, 29 U.S.C. §201 et seq. (“FLSA”), the Michigan Minimum Wage Law of 1964, MCL 408.381 et. seq. (“MMWL”), and Illinois Minimum Wage Law 820 ILCS 105/1 et. seq. (IMWL) for Defendants’ failure to pay minimum and overtime wages to Plaintiffs, and all others similarly situated. Defendants’ unlawful compensation practices have (and have had) the effect of denying Plaintiffs, and all others similarly situated, their earned wages.

2. This case arises from facts where the Plaintiffs and all other members of the proposed FLSA collective action and Fed. R. Civ. P., Rule 23 class action are, or were, students at the Defendants’ beauty and/or cosmetology schools. The Plaintiffs, and all others similarly situated, were required by the Defendants to perform numerous hours of work at the Defendants’ for-profit salons located in the states of Michigan, Illinois and Tennessee under circumstances that created an employer-employee relationship between these students and the Defendants and

that required the Plaintiffs, and all others similarly situated, to be paid minimum wages and overtime pay as established by federal and/or state law.

II. JURISDICTION AND VENUE

3. Original and supplemental jurisdiction is conferred by 28 USC § 1331, 28 USC § 1332(d) and 28 U.S.C. § 1367(a). Federal question jurisdiction over Plaintiffs', and all other persons similarly situated, FLSA claims is conferred by 28 USC § 1331. Original jurisdiction over Plaintiffs', and all others similarly situated, MMWL and IMWL claims is conferred by the Class Action Fairness Act of 2005, 28 USCS § 1332(d) ("CAFA") since the value of these claims are believed to exceed \$5,000,000, the citizenship of the parties meets the diversity requirements of CAFA, and meets the other conditions for exercising jurisdiction under CAFA. Supplemental jurisdiction over Plaintiffs', and all others similarly situated, MMWL and IMWL claims is properly exercised under 28 U.S.C. § 1367(a) since these claims present many overlapping and identical issues of law and fact as the Fair Labor Standards Act claims.

4. Venue is proper pursuant to 28 USC § 1391, since all Defendants reside or are located and/or doing business in the Eastern District of Michigan and the events giving rise to this action occurred, in significant part, within this District.

III. PARTIES

5. Plaintiff Joy Eberline (one of the "named Plaintiffs" or "Plaintiffs" and a "Class Member"), resides in the City of Brighton in Livingston County, Michigan.

6. Plaintiff Tracy Poxson (one of the "named Plaintiffs" or "Plaintiffs" and a "Class Member"), resides in the City of Jackson in Jackson County, Michigan.

7. Plaintiff Cindy Zimmerman (one of the "named Plaintiffs" or "Plaintiffs" and a "Class Member"), resides in the City of Grand Rapids in Kent County, Michigan.

8. Defendant Douglas J. Holdings, Inc. (one of the “Corporate Defendants”) is a corporation formed and existing under the laws of the State of Michigan and has facilities and is doing business in the States of Michigan, Illinois and Tennessee.

9. That on or about December 30, 2012, Douglas J. Holdings, Inc., entered into a share exchange with the other Corporate Defendants whereby its shares were exchanged for all the shares of the other Corporate Defendants and by doing so Douglas J. Holdings Inc. also acquiring all of the outstanding shares, assets, rights and liabilities that had previously belonged to the other Corporate Defendants.

10. Defendant Douglas J. AIC, Inc. (one of the “Corporate Defendants”) is a corporation formed and existing under the laws of the State of Michigan and is doing business in the States of Michigan, Illinois and Tennessee.

11. Defendant Douglas J. Institute, Inc. (one of the “Corporate Defendants”) is a corporation formed and existing under the laws of the State of Michigan and is doing business in the States of Michigan, Illinois and Tennessee.

12. Defendant Douglas J. Exchange, Inc. (one of the “Corporate Defendants”) is a corporation formed and existing under the laws of the State of Michigan and is doing business in the States of Michigan, Illinois and Tennessee.

13. Defendant Scott A. Weaver (one of the “Individual Defendants”) is a resident of the State of Michigan.

14. Either directly or through his ownership interest in one or more intermediary entities that in turn possess an ownership interest in such Corporate Defendant(s), Defendant Scott A. Weaver is an owner in full or in part of all the Corporate Defendants or, alternatively, an owner in full or part of one or more of the Corporate Defendants.

15. Defendant Scott A. Weaver is an officer of all the Corporate Defendants or, alternatively, an officer of one or more of the Corporate Defendants.

16. Defendant TJ Weaver (one of the “Individual Defendants”) is a resident of the State of Michigan.

17. Either directly or through his ownership interest in one or more intermediary entities that in turn possess an ownership interest in such Corporate Defendant(s), Defendant TJ Weaver is an owner in full or in part of all the Corporate Defendants or, alternatively, an owner in full or part of one or more of the Corporate Defendants.

18. Defendant TJ Weaver is an officer of all the Corporate Defendants or, alternatively, an officer of one or more of the Corporate Defendants.

19. Defendant Kristi E. Bernhardt (one of the “Individual Defendants”) is a resident of the State of Michigan.

20. Either directly or through his ownership interest in one or more intermediary entities that in turn possess an ownership interest in such Corporate Defendant(s), Defendant Kristi E. Bernhardt is an owner in full or in part of all the Corporate Defendants or, alternatively, an owner in full or part of one or more of the Corporate Defendants.

21. Defendant Kristi E. Bernhardt is an officer of all the Corporate Defendants or, alternatively, an officer of one or more of the Corporate Defendants.

22. Defendants operate beauty/cosmetology schools under the name “Douglas J. Aveda Institute” (the “Douglas J. Beauty School Business” and the “Douglas J. Schools”) in Michigan, Illinois and Tennessee. They operate eight such schools.

III. CLASS & REPRESENTATIVE ALLEGATIONS

23. The named Plaintiffs bring this action on their own behalf, and on behalf of the class of all others similarly situated and on behalf of the general public.

24. A copy of Plaintiff Joy Eberline's consent to bring her claim for unpaid minimum and overtime wages under the FLSA and consent to act as a representative in a class and/or collective action is attached hereto as Exhibit A.

25. A copy of Plaintiff Tracy Poxon's consent to bring her claim for unpaid minimum and overtime wages under the FLSA and consent to act as a representative in a class and/or collective action is attached hereto as Exhibit B.

26. A copy of Plaintiff Cindy Zimmerman's consent to bring her claim for unpaid minimum and overtime wages under the FLSA and consent to act as a representative in a class and/or collective action is attached hereto as Exhibit C.

27. The class consists of all persons who were, as alleged herein, wholly uncompensated employees of the Defendants in their for-profit personal services businesses under the FLSA, such class claims being brought pursuant to 29 U.S.C. § 216(b) which authorizes lawsuits on behalf of others similarly situated, such lawsuits often referred to as "collective" actions. Some or all of such persons who are alleged to be similarly situated and members of the FLSA class are also entitled to relief under the laws of the States of Michigan and Illinois, (the "state claims"). It is asserted that the state claims are properly subject to class action treatment under Fed. R. Civ. P., Rule 23.

28. The class claims asserted encompass, under the FLSA, the time period from three years prior to the commencement of this action through the date of any judgment, such claims encompassing for state law purposes the statute of limitations applicable to each state's law as determined by the date of the commencement of this action through date of any judgment.

29. The class of persons identified in paragraph 27 is in excess of 1000 and is so numerous that the joinder of each member of the class is impracticable.

30. There is a well-defined community of interest in the questions of law and fact affecting the class that the named Plaintiffs propose to represent. The Plaintiffs, and all others similarly situated,' claims against Defendants involve questions of common or general interest, in that their claims are based on Defendants' failure to pay any wages whatsoever to such persons despite the FLSA's requirement, as alleged herein, that such persons be paid at least the minimum hourly wage provided for in 29 U.S.C. § 206 and overtime as required by 29 U.S. Code § 207, such conduct also violating the legal obligations imposed upon the Defendants under the various state laws alleged herein. These questions are such that proof of a state of facts common to the members of the class will entitle each member of the class to the relief requested in this Complaint.

31. If individual actions were required to be brought by each injured or affected member of the class, the result would be a multiplicity of actions creating a hardship to Plaintiffs, and all others similarly situated,, Defendants, and the resources of the Court. Furthermore, those Plaintiffs, and all others similarly situated, still employed by Defendants may be reluctant to raise individual claims for fear of retaliation. A class action is an appropriate method for fair and efficient adjudication of this lawsuit and distribution of the common fund to which the class is entitled.

32. The named Plaintiffs will fairly and adequately represent the interests of the class, because the named Plaintiffs are members of the class and the claims of the named Plaintiffs are typical of the claims of those in the class. The named Plaintiffs have retained experienced counsel competent to represent the class, the adjudication of the putative Fed. R. Civ. P., Rule 23

class claims on a class action basis is superior to other means of adjudication of such claims and/or is desirable based upon the common actions of the Defendants towards the class and/or the risk of inconsistent adjudications and uncertainty regarding the proper standard of conduct by the Defendants if such claims were subject to multiple individual litigations and/or the other criteria of Fed. R. Civ. P., Rule 23 are met warranting the class action certification of such claims.

IV. COMMON FACTS

Defendants' Business Operations And The Parties' Relationship

33. Defendants operate the Douglas J. Beauty School Business as a for-profit business.

34. The Defendants' Douglas J. Beauty School Business is not registered with, or recognized by, any State or the United States as a non-profit or charitable enterprise.

35. As a for-profit business, the Defendants' Douglas J. Beauty School Business is required by law to file tax information reports or tax returns with the United States Internal Revenue Service and on those filings such entities are not indicated to be a charity or non-profit business within the meaning of the applicable statutes and regulations.

36. The Defendants' for-profit activities that are part of the Douglas J. Beauty School Business include providing educational services (the "educational services business") to paying students in the cosmetological trades, which includes but is not limited to training students to practice, as regulated by various state laws, the trades of cosmetology, hair styling, barbering, esthetics, esthology or skin care, makeup artistry and manicuring.

37. The Defendants' for-profit activities that are part of the Douglas J. Beauty School Business include the providing of personal services, for a fee, to members of the public (the

“personal services business”) who in exchange for paying such a fee receive cosmetology, hair styling, barbering, esthetics, esthiology, skin care, makeup artistry and/or manicuring services.

38. The Douglas J. Beauty School’s personal services business is intended to and does generate a profit for Defendants.

39. In the Douglas J. Beauty School’s personal services business, the revenue that Defendants receive from the public as a result of fees for services exceeds the value of the materials, if any, that such members of the public consume during the receipt of such services.

40. In the Douglas J. Beauty School’s personal services business, the Defendants utilize the labor of the Plaintiffs, and all others similarly situated, who have also purchased the educational services provided by the Douglas J. Beauty School.

41. The Plaintiffs, and all others similarly situated, are paid no compensation by the Douglas J. Beauty School for the labor they provide in Douglas J. Beauty School’s personal services business.

42. The labor provided by the Plaintiffs, and all others similarly situated, in the Douglas J. Beauty School’s personal services business was and is essential to that business since the labor needed to provide the personal services to the members of the fee-paying public was furnished exclusively or predominately by the Plaintiffs and all others similarly situated.

43. Without the labor provided by the Plaintiff and all others similarly situated, the Douglas J. Beauty School’s personal services business would either cease to operate or would have to secure paid labor from other persons, as required by the FLSA and applicable state laws.

44. The Douglas J. Beauty School actively promotes and advertises its personal services business on its website and in other forums. In the promotion and advertising of its personal service business, the Douglas J. Beauty School seeks to induce the purchase of personal

services by the public at a lower cost than that typically charged by other businesses providing the same or similar services which do not utilize uncompensated labor to provide such services.

45. The Douglas J. Beauty School competes with other for-profit businesses that provide the same or similar personal services that it provides to the members of the public.

46. The Douglas J. Beauty School is able to advantageously compete in the marketplace with other for-profit businesses that provide the same or similar personal services by charging members of the public lower fees for such services than those charged by its competitors.

47. The Douglas J. Beauty School's ability to provide the same personal services to members of the public as are provided by its competitors, and earn a profit by doing so, is either substantially or entirely the result of the Douglas J. Beauty School enjoying lower operating costs.

48. The Douglas J. Beauty School has lower operating costs in its personal services business because it provides such services to the public using the unpaid labor of the Plaintiffs, and all others similarly situated. The Douglas J. Beauty School's competitors however must pay at least the minimum hourly wage and overtime required by the FLSA or state law to their employees who provide the same labor and services to the public.

49. The Douglas J. Beauty School could have the Plaintiffs, and all others similarly situated, provide personal services to the public without charge, or only for a charge equivalent to the actual cost, if any, of the materials consumed in providing such personal services.

50. The Defendants have made a conscious decision to not have the Plaintiffs, and all others similarly situated, provide personal services to the public without charge, or only for a charge equivalent to the actual cost, if any, of the materials consumed in providing such personal

services.

51. The Defendants have made a conscious decision to not provide personal services to the public without charge or only for a charge equivalent to the actual cost so the Douglas J. Beauty School can operate a for-profit personal services business that advantageously competes with other enterprises that also provide such personal services and are not in the educational services business.

52. While the Plaintiffs, and all others similarly situated,' labor in the Douglas J. Beauty School's personal services business benefits them in securing experience providing such personal services and in achieving their ultimate goal of being licensed to practice their desired occupation, Defendants' decision to operate the Douglas J. Beauty School's personal services business as a for-profit venture is irrelevant to the Plaintiffs, and all others similarly situated,' education and occupational goals. Plaintiffs, and all others similarly situated, would enjoy the exact same benefit if the Douglas J. Beauty School did not charge members of the public any fee for such personal services, or if it only charged a fee sufficient to cover the actual cost of the materials, if any, consumed by such members of the public while receiving such personal services.

53. The Douglas J. Beauty School's educational services business neither requires nor benefits from the Defendants' decision to charge members of the public for providing personal services and to carry on a for-profit personal services business utilizing the unpaid labor of the Plaintiffs, and all others similarly situated,.

54. The Defendants' carrying on of a for-profit personal services business, utilizing the unpaid labor of the Plaintiffs, and all others similarly situated,, has the effect of depressing wages and employment opportunities generally among workers who would otherwise provide

those personal services.

55. The depression of wages and employment opportunities arises because the Douglas J. Beauty School is paying nothing whatsoever for the Plaintiffs, and all others similarly situated,' labor, which in turn results in it being able to conduct a for-profit personal services business that charges less than its competitors.

56. The ability of the Defendants to secure unpaid labor for the Douglas J. Beauty School's for-profit personal services business results in other businesses who provide the same or similar personal services being unable to increase the wages of their workers above that minimum hourly amount or hire more workers to provide such services. Those other businesses are unable to do those things as a direct and proximate result of Defendants utilization of the unpaid labor of the Plaintiffs, and all others similarly situated.

57. The amount of hours of unpaid labor that the Plaintiffs, and all others similarly situated, performed in the Douglas J. Beauty School's personal services business is or should be known to the Defendants who are required to keep detailed contemporaneous records of those hours of work and in respect to each of the named Plaintiffs, and all others similarly situated, such hours of work were in excess of 500 hours.

***Employment Relationship Between the Corporate Defendants and Plaintiffs
and Similarly Situated Persons Under The FLSA And State Law***

58. The relationship between the Defendants and the Plaintiffs and all others similarly situated, regarding the labor provided by the putative Plaintiffs, and all others similarly situated, in the Douglas J. Beauty School's personal services business, is one of employer and employee for the purposes of the FLSA and state law. The employment relationship is supported by facts including but not limited to:

- a. The Plaintiffs, and all others similarly situated, provided labor in the Douglas J.

Beauty School's personal services business that is and was immediately advantageous to the Corporate Defendants and the profitability of such business was substantially or wholly dependent upon such labor;

- b. The Plaintiffs, and all others similarly situated,, while receiving a benefit from their labor in the Douglas J. Beauty School's personal services business in the form of experience that assisted them in achieving their occupational goals, were simultaneously conferring a valuable economic benefit upon the Corporate Defendants, which were charging the public for the services of the Plaintiffs, and all others similarly situated, and profiting from such charges;
- c. The Plaintiffs, and all others similarly situated,' labor in the Douglas J. Beauty School's personal services business displaced or made unnecessary the employment of the persons the Douglas J. Beauty School would have otherwise had to employ, and pay wages to, for the performance of the labor that the Plaintiffs, and all others similarly situated, furnished and from which the Corporate Defendants profited;
- d. Certain of the Plaintiffs, and all others similarly situated,' labor did not and could not confer any educational or occupational benefit whatsoever upon such Plaintiffs, and all others similarly situated,, in that the Plaintiffs, and all others similarly situated,, or some of them, were required by Corporate Defendants to spend time not actually performing personal services on customers but performing manual labor or administrative functions including, but not limited to, janitorial, clerical or logistical functions, that were essential and necessary for the conducting of the Douglas J. Beauty School's personal services business but which had no educational purpose or benefit to the Plaintiffs, and all others similarly situated, and for which time expenditures Corporate Defendants failed and refused to pay the Plaintiffs, and all others similarly situated, any wages whatsoever; and
- e. For the reasons stated herein, as the Douglas J. Beauty School's utilization of the unpaid labor of the Plaintiffs, and all others similarly situated, in a commercial, for-profit, personal services business depresses the wages of employees in that industry and lessens the employment opportunities in that industry.

***The Individual Defendants Are Also Legally
Responsible For The Plaintiffs', And All Others Similarly Situated, Claims***

59. The Individual Defendants, by virtue of their ownership, roles as officers, and/or control of the Douglas J. Beauty School Business, were empowered to make, and did make, the decisions to have the Douglas J. Beauty School institute and/or continue the Defendants' practices that are alleged to have created an employer and employee relationship between the

Defendants and the Plaintiffs, and all others similarly situated, for the purposes of the FLSA and state minimum wage and overtime laws that are alleged in this Complaint, such actions by the Individual Defendants also causing the violations of the FLSA and state law alleged in this Complaint.

60. The Individual Defendants, by virtue of their ownership and/or control of the Douglas J. Beauty School Business could have, but did not, make the decision to have the Douglas J. Beauty School discontinue the Defendants' practices that are alleged to have created an employer and employee relationship between the Defendants and the Plaintiffs, and all others similarly situated, for the purposes of the FLSA and the state minimum wage and overtime laws that are alleged in this Complaint, such actions by the Individual Defendants also causing the violations of the FLSA and state law alleged in this Complaint.

61. The Individual Defendants, despite having the power to do so, did not direct the Douglas J. Beauty School to discontinue the practices that are alleged to have created an employer and employee relationship between the Defendants and the Plaintiffs, and all others similarly situated, for the purposes of the FLSA and the state minimum wage and overtime laws that are alleged in this Complaint, such actions by the Individual Defendants also causing the violations of the FLSA and state law alleged in this Complaint. The Individual Defendants failed to take such action because doing so would have diminished the profits of the Douglas J. Beauty School and such diminishment of profits would have in turn diminished the financial returns enjoyed by the Defendants.

62. The Individual Defendants became aware, at least three years prior to the commencement of this action, that the personal services business of the Douglas J. Beauty School was an important and profitable business activity of the Douglas J. Beauty School.

63. The Individual Defendants became aware, at least three years prior to the commencement of this action that the personal services business of the Douglas J. Beauty School relied upon the unpaid labor of the Plaintiffs, and all others similarly situated,.

64. The Individual Defendants after becoming aware that the personal services business of the Douglas J. Beauty School relied upon the unpaid labor of the Plaintiffs, and all others similarly situated,, made no attempt to ascertain whether the Douglas J. Beauty School's use in its personal services business of the unpaid labor of the Plaintiffs, and all others similarly situated, was in compliance with the FLSA or the state minimum wage laws of Michigan and Illinois.

65. The Individual Defendants, after becoming aware that the personal services business of the Douglas J. Beauty School relied upon the unpaid labor of the Plaintiffs, and all others similarly situated,, and prior to the occurrence of the injuries sustained by the Plaintiffs, and all others similarly situated, were made aware that the use of unpaid student labor by a private for-profit cosmetology school in a for-profit personal services business might violate the FLSA and state minimum wage and overtime laws. The Individual Defendants, despite that knowledge, made no attempt to change the Douglas J. Beauty School's practice of using uncompensated student labor in a for-profit personal services business.

66. The Individual Defendants, after they became aware that the personal services business of the Douglas J. Beauty School relied upon the unpaid labor of the Plaintiffs, and all others similarly situated,, and prior to the occurrence of the injuries sustained by the Plaintiffs, and all others similarly situated, were made aware that the use of unpaid student labor by a private for-profit cosmetology school in a for-profit personal services business either did violate the FLSA or had been found by at least one court to violate the FLSA. The Individual

Defendants, despite that knowledge, made no attempt to change the Douglas J. Beauty School's practice of using uncompensated student labor in a for-profit personal services business.

67. In light of the foregoing set of facts, the Individual Defendants are properly deemed an "employer" of the Plaintiffs, and all others similarly situated, within the meaning of the FLSA and the Michigan and Illinois minimum wage and overtime laws in that the Individual Defendants were acting as a decision making "agents of an employer" and were the controlling persons of the Douglas J. Beauty School Business and the beneficial owners of the Douglas J. Beauty School with the power to implement, continue and/or terminate the illegal policies and practices that are alleged to have violated the FLSA and the state statutes alleged in this Complaint. The Individual Defendants were not only vested with such powers, but also knowingly exercised such powers to continue the violations of the FLSA and the state statutes that are alleged in this Complaint and/or they acquiesced to the continuation of such violations despite having the power and duty to prevent and stop the same. In addition, because the actions of the Individual Defendants in causing the violations of the FLSA and the state minimum wage and overtime statutes alleged in this Complaint were intentional, and such violations may also constitute criminal offenses, the Individual Defendants cannot shield themselves from personal civil liability for such actions because they had those actions performed by the Corporate Defendants.

V. CAUSES OF ACTION

COUNT I – FAIR LABOR STANDARDS ACT MINIMUM WAGE & OVERTIME PAY

68. Plaintiffs incorporate by reference paragraphs 1 through 67 above as though fully stated herein.

69. This Count applies to the named Plaintiffs and all others similarly situated.

70. At all times relevant to this action, Plaintiffs, and all others similarly situated, were Defendant's employees and Defendants were Plaintiffs', and all others similarly situated, employer within the meaning of the Fair Labor Standards Act, 29 U.S.C. 201, et seq. and 29 C.F.R. §791.

71. Pursuant to the applicable provisions of the FLSA including 29 U.S.C. § 206, the Plaintiffs, and all others similarly situated, were entitled to at least the minimum hourly wage, which is currently \$7.25 an hour, for each hour that they labored in Defendants' personal services business.

72. Pursuant to the applicable provisions of the FLSA including 29 U.S.C. § 207, and in the event they worked more than 40 hours a week, the Plaintiffs, and all others similarly situated, were entitled to an overtime hourly wage of time and one-half their regular hourly wage for all hours worked in excess of 40 hours per week.

73. The Plaintiffs, and all others similarly situated, were paid no monetary compensation whatsoever by the Defendants for performing labor for the Defendants as employees in the Defendants' personal services business, such failure to pay the Plaintiffs, and all others similarly situated, any compensation whatsoever violating the minimum hourly wage requirements of 29 U.S.C. § 206 and, in the event any of the Plaintiffs, and all others similarly situated, ever worked in excess of 40 hours in a week, the overtime pay requirements of 29 U.S.C. § 207.

74. Defendants aforesaid violations of the FLSA were willful in that Defendants were aware they were running a for-profit personal services business and were treating the Plaintiffs, and all others similarly situated, like employees and Defendants also were aware that employees

of for-profit personal services businesses are covered by the minimum hourly wage requirements of the FLSA.

75. The Plaintiffs on behalf of themselves and all others similarly situated propose that all such persons be notified of this action through the dispatch of a written notice to the last known names and addresses of such persons that are set forth in the Defendants' records or that can otherwise be ascertained, seek, on this First Claim for Relief, a judgment for unpaid minimum wages and overtime wages and additional liquidated damages of 100% of any such unpaid wages, punitive damages, and all other damages as permitted by law or equity. The Plaintiffs also seek an award of attorney's fees, interest and costs as provided for by the FLSA.

**COUNT II – MICHIGAN MINIMUM WAGE LAW OF 1964 –
MINIMUM WAGE VIOLATIONS**

76. Plaintiffs incorporate by reference paragraphs 1 through 75 above as though fully stated herein.

77. This Count applies to those named Plaintiffs and all others similarly situated, who worked at Defendants' facilities located in the State of Michigan.

78. At all times relevant to this action, Plaintiffs, and all others similarly situated, were Defendant's employees and Defendants were Plaintiffs', and all others similarly situated, employer within the meaning of the Michigan Minimum Wage Law of 1964, MCL § 408.381 et. seq.

79. Pursuant to the applicable provisions of the MMWL including MCL § 408.384, the Plaintiffs, and all others similarly situated, who worked at Defendants facilities in Michigan were entitled to at least the minimum hourly wage, which is currently \$7.40 an hour, for each hour that they labored in Defendants' personal services business.

80. The Plaintiffs, and all others similarly situated, were paid no monetary compensation whatsoever by the Defendants for performing labor for the Defendants as employees in the Defendants' personal services business, such failure to pay the Plaintiffs, and all others similarly situated, any compensation whatsoever violating the minimum hourly wage requirements of § 408.384.

81. Defendants aforesaid violations of the MMWL were willful in that Defendants were aware they were running a for-profit personal services business and were treating the Plaintiffs, and all others similarly situated, like employees and Defendants also were aware that employees of for-profit personal services businesses are covered by the minimum hourly wage requirements of the MMWL.

82. The named Plaintiffs on behalf of themselves and all other similarly situated propose that all such persons be notified of this action through the dispatch of a written notice to the last known names and addresses of such persons that are set forth in the Defendants' records or that can otherwise be ascertained, seek, on this Second Claim for Relief, a judgment for unpaid minimum wages and for additional liquidated damages of 100% of any such unpaid wages and all other damages as permitted by law or equity. The Plaintiffs also seek an award of attorney's fees, interest and costs as provided for by the MMWL.

**COUNT III – ILLINOIS MINIMUM WAGE LAW –
MINIMUM WAGE & OVERTIME PAY VIOLATIONS**

83. Plaintiffs incorporate by reference paragraphs 1 through 82 above as though fully stated herein.

84. This Count applies to all others similarly situated to the named Plaintiffs who worked at Defendants' facility located in the State of Illinois.

85. At all times relevant to this action, all others similarly situated to the named Plaintiffs, were Defendant's employees and Defendants were the employer of all others similarly situated to the named Plaintiffs within the meaning of the Illinois Minimum Wage Law, 820 ILCS 105/1.

86. Pursuant to the applicable provisions of the IMWL including 820 ILCS 105/4, all others similarly situated to the named Plaintiffs were entitled to at least the minimum hourly wage, which is currently \$8.25 an hour, for each hour that they labored in Defendants' personal services business.

87. Pursuant to the applicable provisions of the IMWL including 820 ILCS 105/4a, and in the event they worked more than 40 hours a week, all others similarly situated to the named Plaintiffs were entitled to an overtime hourly wage of time and one-half their regular hourly wage for all hours worked in excess of 40 hours per week.

88. All others similarly situated to the named Plaintiffs were paid no monetary compensation whatsoever by the Defendants for performing labor for the Defendants as employees in the Defendants' personal services business, such failure to pay the all others similarly situated to the named Plaintiffs any compensation whatsoever violating the minimum hourly wage requirements of 820 ILCS 105/4 and, in the event any of the Plaintiffs, and all others similarly situated, or Plaintiffs ever worked in excess of 40 hours in a week, the overtime pay requirements of 820 ILCS 105/4a.

89. Defendants aforesaid violations of the IMWL were willful in that Defendants were aware they were running a for-profit personal services business and were treating the Plaintiffs, and all others similarly situated, like employees and Defendants also were aware that

employees of for-profit personal services businesses are covered by the minimum hourly wage requirements of the IMWL.

90. The named Plaintiffs on behalf of themselves and all other similarly situated persons propose that all such persons be notified of this action through the dispatch of a written notice to the last known names and addresses of such persons that are set forth in the Defendants' records or that can otherwise be ascertained, seek, on this Third Claim for Relief, a judgment for unpaid minimum wages and overtime wages and damages of 2% of the amount of any such underpayments for each month during which such underpayments remain unpaid, and all other damages as permitted by law or equity. The Plaintiffs also seek an award of attorney's fees, interest and costs as provided for by the IMWL.

PRAYER FOR RELIEF

NOW THEREFORE, Plaintiffs pray for relief for themselves and other persons similarly situated, known and unknown, demands a jury trial and prays this Honorable court enter Judgment against Defendants jointly and severally,:

- a. Judgment against all Defendants for unpaid minimum wages and overtime wages and additional liquidated damages of 100% of any unpaid minimum wages and overtime wages and all other damages as permitted by law or equity for violation of the FLSA along with an award of punitive damages, costs and attorney's fees;
- b. Judgment against all Defendants for unpaid for unpaid minimum wages and additional liquidated damages of 100% of any such unpaid wages and all other damages as permitted by law or equity for violation of the MMWL along with an award of costs and attorney's fees;
- c. Judgment against all Defendants for unpaid for unpaid minimum wages and overtime wages and damages of 2% of the amount of any such underpayments for each month during which such wages were unpaid, and all other damages as permitted by law or equity for violation of the IMWL, along with an award of costs and attorney's fees;
- d. Equitable, declaratory and injunctive relief including restitution and restraint of Defendants' actions in the future under applicable federal law or the laws of Illinois, Michigan or Tennessee;

- e. Costs, litigation expenses and disbursements, interest and reasonable attorney's fees; and
- f. Such further relief the court deems just and reasonable.

Respectfully Submitted,

By: /s/ John C. Philo

John C. Philo (P52721)
Anthony D. Paris (P71525)
SUGAR LAW CENTER
FOR ECONOMIC & SOCIAL JUSTICE
4605 Cass Ave., 2nd Floor
Detroit, Michigan 48201
(313) 993-4505/Fax: (313) 887-8470
jphilo@sugarlaw.org
tparis@sugarlaw.org
Attorneys for Plaintiffs

Julie H. Hurwitz (P34720)
William H. Goodman (P14173)
GOODMAN & HURWITZ PC
1394 E. Jefferson Ave.
Detroit, Michigan 48207
(313) 567-6170/Fax: (313) 567-4827
jhurwitz@goodmanhurwitz.com
bgoodman@goodmanhurwitz.com
Attorneys for Plaintiffs

Leon Greenberg, Esq.*
2965 South Jones Boulevard #E-4
Las Vegas, Nevada 89146
(702) 383-6085/ Fax: (702) 385-1827
leongreenberg@overtimelaw.com
Attorney for Plaintiffs

*Not currently admitted to ED Mich. Application to be submitted.

February 26, 2014

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

JOY EBERLINE, CINDY ZIMMERMAN,
And TRACY POXSON, individually and
on behalf of all others similarly situated,

Plaintiffs,

Case No. _____

Hon. _____

v.

DOUGLAS J. HOLDINGS, INC.,
DOUGLAS J. AIC, INC., DOUGLAS J.
INSTITUTE, INC., DOUGLAS J.
EXCHANGE, INC., SCOTT A. WEAVER,
TJ WEAVER, and KRISTI E. BERNHARDT,

Jury Demand

Defendants.

John C. Philo (P52721)
Anthony D. Paris (P71525)
**SUGAR LAW CENTER
FOR ECONOMIC & SOCIAL JUSTICE**
4605 Cass Ave., 2nd Floor
Detroit, Michigan 48201
(313) 993-4505/Fax: (313) 887-8470
jphilo@sugarlaw.org
tparis@sugarlaw.org
Attorneys for Plaintiffs

Julie H. Hurwitz (P34720)
William H. Goodman (P14173)
GOODMAN & HURWITZ PC
1394 E. Jefferson Ave.
Detroit, Michigan 48207
(313) 567-6170/Fax: (313) 567-4827
jhurwitz@goodmanhurwitz.com
bgoodman@goodmanhurwitz.com
Attorneys for Plaintiffs

Leon Greenberg, Esq.*
2965 South Jones Boulevard #E-4
Las Vegas, Nevada 89146
(702) 383-6085/ Fax: (702) 385-1827
leongreenberg@overtimelaw.com
Attorney for Plaintiffs
*Not currently admitted to ED Mich.
Application to be submitted.

PLAINTIFFS' JURY DEMAND

Plaintiffs, on behalf of themselves and all others persons similarly situated, known and unknown, and by and through counsel demand a trial by jury in the above-captioned matter.

Respectfully Submitted,

By: /s/ John C. Philo
John C. Philo (P52721)
Anthony D. Paris (P71525)
SUGAR LAW CENTER
FOR ECONOMIC & SOCIAL JUSTICE
4605 Cass Ave., 2nd Floor
Detroit, Michigan 48201
(313) 993-4505/Fax: (313) 887-8470
jphilo@sugarlaw.org
tparis@sugarlaw.org
Attorneys for Plaintiffs

Julie H. Hurwitz (P34720)
William H. Goodman (P14173)
GOODMAN & HURWITZ PC
1394 E. Jefferson Ave.
Detroit, Michigan 48207
(313) 567-6170/Fax: (313) 567-4827
jhurwitz@goodmanhurwitz.com
bgoodman@goodmanhurwitz.com
Attorneys for Plaintiffs

Leon Greenberg, Esq.*
2965 South Jones Boulevard #E-4
Las Vegas, Nevada 89146
(702) 383-6085/ Fax: (702) 385-1827
leongreenberg@overtimelaw.com

Attorney for Plaintiffs

*Not currently admitted to ED Mich. Application to
be submitted.

February 26, 2014