

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

GLORIA LEROY, on behalf of	§	
herself and other similarly	§	CIVIL ACTION NO. ____
situated,	§	
	§	
<i>Plaintiff,</i>	§	JURY TRIAL DEMANDED
	§	
v.	§	
	§	COLLECTIVE ACTION
KAPDAS INCORPORATED, KAPDAS	§	
HOLDINGS, LLC, and KAPDAS TAX	§	
SERVICES d/b/a/ LIBERTY TAX	§	
SERVICE,		
<i>Defendants.</i>		

**COLLECTIVE ACTION COMPLAINT**

**I. SUMMARY**

1. KAPDAS Incorporated, KAPDAS Holdings LLC, and KAPDAS Tax Services LLC, all doing business as Liberty Tax Service (collectively, hereinafter "LTS"), a tax preparation company that provides its services in and around Atlanta, Georgia, is violating the Fair Labor Standards Act ("FLSA") by forcing its employees to work a substantial amount of overtime without properly paying all compensation due, thus depriving them of rightful compensation for their work that LTS is legally obligated to pay.

2. Plaintiff Gloria LeRoy worked for LTS as a tax preparer at LTS's Stockbridge, Georgia location and was damaged by this illegal policy or practice. Plaintiff was denied the compensation she is due under the FLSA. Plaintiff brings this

lawsuit on behalf of herself and all other similarly situated current or former, hourly-paid tax preparers to recover unpaid wages and overtime compensation, liquidated damages, attorneys' fees, and costs owed to her individually and on behalf of other similarly situated individuals.

## II. JURISDICTION AND VENUE

3. This Court has original subject matter jurisdiction under 28 U.S.C. § 1331 because Plaintiff's claims arise under federal law, namely the FLSA, 29 U.S.C. § 201 *et seq.*

4. Venue is proper because a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in the Northern District of Georgia. 28 U.S.C. § 1391(b)(2).

## III. THE PARTIES

5. Plaintiff LeRoy worked as a tax preparer for LTS at its Stockbridge, Georgia location. She performed various tax-related services for clients, including but not limited to preparing tax returns for individuals and small businesses. She regularly worked in excess of 40 hours per week without receiving all the compensation she is due under the FLSA. Plaintiff LeRoy's consent is attached as Exhibit A.

6. The class of similarly situated employees consists of all current and former hourly-paid tax preparers, who were employed by LTS during the three-year period preceding the

filing of this Complaint. These similarly situated individuals are referred to as the "Members of the Class" or "the Class."

7. Defendant KAPDAS Incorporated, doing business as Liberty Tax Service, is a Domestic For Profit Corporation with a principal place of business at 1465 Hudson Bridge Road, Liberty Tax Service, Suite 111, Stockbridge, Georgia that is engaged in commerce in the United States and is otherwise subject to the FLSA. Defendant KAPDAS Incorporated employed Plaintiff within the meaning of the FLSA. KAPDAS Incorporated may be served with process by serving its registered agent Kimberly P. Shaw at 572 Fraser St. N.E., Dekalb, Atlanta, Georgia, 30312.

8. Defendant KAPDAS Holdings, LLC, also doing business as Liberty Tax Service, is a Domestic Limited Liability Company with a principal place of business at 1465 Hudson Bridge Road, Liberty Tax Service, Suite 111, Stockbridge, Georgia, 30281 that is engaged in commerce in the United States and is otherwise subject to the FLSA. Defendant KAPDAS Holdings, LLC employed Plaintiff within the meaning of the FLSA. Defendant KADAS Holdings, LLC may be served with process by serving its registered agent, Douglas A. Shaw at 475 Brook Hollow Drive, Henry, McDonough, Georgia 30252.

9. Defendant KAPDAS TAX SERVICES, LLC, also doing business as Liberty Tax Service, is a Domestic Limited Liability Company with a principal place of business at 1465 Hudson Bridge

Road, Liberty Tax Service, Suite 111, Stockbridge, Georgia 30281 that is engaged in commerce in the United States and is otherwise subject to the FLSA. Defendant KAPDAS Tax Services, LLC employed Plaintiff within the meaning of the FLSA. Defendant KAPDAS Tax Services, LLC may be served with process by serving its registered agent, Kimberly P. Shaw at 572 Fraser Street, Henry, Atlanta Georgia 30312.

#### IV. BACKGROUND

10. LTS provides tax preparation and filing services for both individuals and businesses throughout the United States, including in and around Atlanta, Georgia. Upon information and belief, LTS employs other Tax Preparers similarly situated to Plaintiff to assist with its customers' tax and accounting needs.

11. LTS's Tax Preparers assist customers, including individuals and small businesses, with preparing and filing their taxes. Upon information and belief, Plaintiff and Members of the Class regularly worked in excess of 40 hours per work week. However, LTS did not pay its Tax Preparers one and one-half times their regular rate for all hours in excess of 40 each week. Instead, LTS only paid its Tax Preparers straight time pay (no overtime) for all hours worked up to 58 hours per workweek. Moreover, Plaintiff and Members of the Class do not receive any compensation for the hours worked over 58 hours per

workweek. As a result, LTS fails to properly compensate its employees under the FLSA.

12. LTS also deducted one hour each day for lunch from its Tax Preparers' pay, even though they were often not afforded full one-hour lunch breaks. Additionally, LTS deducted 30-minutes each day for "breaks" from its Tax Preparers' pay, regardless of whether any breaks were actually taken by Plaintiff and other Tax Preparers.

#### **V. PLAINTIFF'S INDIVIDUAL ALLEGATIONS**

##### ***A. LTS Failed to Properly Pay Regular and Overtime Compensation.***

13. Plaintiff worked for LTS as a Tax Preparer, where she regularly met with clients to assist with preparing and filing their taxes. During her employment, Plaintiff frequently worked seven consecutive days during a workweek. In a workweek, Plaintiff often worked approximately 75 or more hours.

14. LTS paid Plaintiff a set hourly rate for each hour worked up to 58 hours per workweek, and Plaintiff was paid on a biweekly basis. However, LTS paid Plaintiff straight-time only (no overtime) for up to 58 hours in a workweek, regardless of the number of hours suffered or permitted to work. LTS also failed to accurately pay Plaintiff for all time actually worked—that is, LTS shortchanged Plaintiff's pay by not paying her all hours recorded on the company's time clocks or would not allow

Plaintiff to clock in until certain times after she already began working. Plaintiff did not receive any compensation for the hours worked over 58 hours in a workweek.

15. Additionally, Plaintiff was deducted one hour each day for lunch, though she was often afforded less than an actual hour for lunch. LTS also deducted 30 minutes each day from Plaintiff's pay for "breaks," but Plaintiff was not afforded any daily "breaks."

16. The FLSA requires LTS to pay hourly compensation for each hour an employee is suffered or permitted to work, and to pay overtime compensation at one and a half times Plaintiff's regular rate of pay for each hour Plaintiff works in excess of 40 hours in a week. LTS should have paid Plaintiff for 40 hours of regular pay and at least 35 hours or more of overtime in a typical workweek, but LTS failed to pay the Plaintiff that amount.

17. By failing to pay Plaintiff as described above, LTS has deprived Plaintiff of a significant amount of regular and overtime compensation to which she is rightfully entitled.

**B. LTS Willfully Violated the FLSA.**

18. The FLSA and Department of Labor regulations require that individuals receive at least minimum wage for all hours suffered or permitted to work. In addition, the FLSA and Department of Labor regulations set forth the proper means for

calculating and paying minimum wage and overtime compensation to non-exempt employees like Plaintiff. LTS failed to follow these rules when paying Plaintiff.

19. LTS had a policy and/or practice of not paying its employees for all of the regular time and overtime they worked each week at the proper rate. LTS should have paid its employees their regular rate for all hours worked, and it should have paid its employees overtime compensation at one and one-half their regular rates for all hours worked in excess of 40 per workweek.

20. LTS knows or has shown reckless disregard for the requirements of the FLSA with respect to compensation for Plaintiff.

#### **VI. COLLECTIVE ACTION ALLEGATIONS**

21. Plaintiff is aware that LTS's illegal policies or practices have been imposed upon Members of the Class. Like Plaintiff, the Members of the Class are employed by LTS as Tax Preparers, providing various tax-related services for LTS's clients at its Stockbridge, Georgia location. The Members of the Class perform job duties similar to Plaintiff, as described above.

22. As with Plaintiff, Members of the Class typically worked seven consecutive days and frequently worked 75 hours or

more per workweek. Like Plaintiff, Members of the Class were paid biweekly.

23. Upon information and belief, the Members of the Class are also not properly paid for all hours suffered or permitted to work, as described above with regard to Plaintiff.

24. LTS's failure to properly compensate Plaintiff and Members of the Class results, upon information and belief, from a generally applicable policy and/or practice. Specifically, upon information and belief, it is a policy and/or practice at LTS to pay its employees for less than all of the regular and overtime hours a Tax Preparer is suffered or permitted to work. As such, the Members of the Class are owed additional regular time and overtime compensation for precisely the same reasons as Plaintiff.

25. Accordingly, the class of similarly situated plaintiffs is properly defined as:

**All current and former hourly paid Tax Preparers, who were employed by LTS during the three-year period preceding the filing of this complaint.**

26. Members of the Class should be notified of this lawsuit and given the opportunity to opt-in if they so desire.

27. Notice from this Court should be expedited to protect these workers from losing a portion of their damages due to the running of the statute of limitations.



**VII. CAUSES OF ACTION**

28. The preceding paragraphs are incorporated by reference.

29. As set forth above, LTS violated the FLSA with respect to Plaintiff and Members of the Class by failing to pay at least minimum wage for all hours suffered or permitted to work in a week and by failing to provide proper overtime pay for all hours worked in excess of 40 hours in a week. 29 U.S.C. §§ 206, 207.

30. Plaintiff and Members of the Class are entitled to recover at least a minimum wage for all hours worked as well as overtime compensation, at one and one-half times their regular rate of pay, for all hours worked in excess of 40 hours in a week.

31. In addition, Plaintiff and Members of the Class are entitled to liquidated damages in an amount equal to their unpaid wages and overtime wages.

32. Moreover, Plaintiff and Members of the Class are entitled to reasonable attorneys' fees and costs. 29 U.S.C. § 216 (b).

**VIII. JURY DEMAND**

33. Plaintiff demands a jury trial. Any required jury fee has been or will be timely paid.

**PRAYER**

WHEREFORE, Plaintiff requests that this Court award him and Members of the Class judgment against KAPDAS Incorporated, KAPDAS Holdings LLC, and KAPDAS Tax Services, all d/b/a Liberty Tax Service for:

1. damages for the full amount of their unpaid wages;
2. damages for the full amount of their unpaid overtime compensation;
3. an amount equal to their unpaid wages and unpaid overtime compensation as liquidated damages;
4. reasonable attorneys' fees, costs and expenses of this action;
5. pre-judgment and post-judgment interest at the highest rate allowed by law; and
6. such other and further relief as may be allowed by law.

DATED this 6<sup>th</sup> day of December 2017.

Respectfully submitted,

MICHAEL A. MILLS, P.C.

By:  s. Michael A. Mills

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HECAMAN PLLC

  
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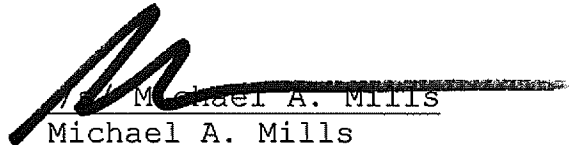
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*Attorneys for Plaintiff*

**CERTIFICATE OF COMPLIANCE**

The undersigned hereby certifies that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1B. This document has been prepared in Courier New font, 12 point.

MICHAEL A MILLS, P.C.



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JS 44-TXND (Rev. 12/12)

**CIVIL COVER SHEET**

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

**I. (a) PLAINTIFFS**

GLORIA LEROY, on behalf of herself and other similarly situated

(b) County of Residence of First Listed Plaintiff Fairbanks Northstar, AK  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Michael A. Mills  
1349 W. Peachtree St. NW, Suite 1995  
Atlanta, Georgia 30309 404-907-1541

**DEFENDANTS**

KAPDAS INCORPORATED, KAPDAS HOLDINGS, LLC, and  
KAPDAS TAX SERVICES d/b/a/ LIBERTY TAX SERVICE

County of Residence of First Listed Defendant Henry, GA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

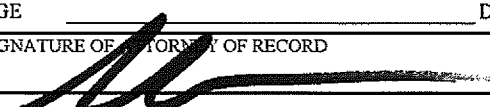
**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. sec. 201 et seq.  
Brief description of cause:  
FLSA: Unpaid Wages and Overtime

**VII. REQUESTED IN COMPLAINT:**

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

**VIII. RELATED PENDING OR CLOSED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_  
DATE 12/6/17 SIGNATURE OF ATTORNEY OF RECORD 

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Liberty Tax Service Tax Preparers Work 'Substantial' Overtime Without Proper Pay](#)

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