

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

JOLEARRA TSHITEYA
1949 Alabama Ave SE
Washington, D.C. 20020
Resident of Washington, D.C.

Plaintiff,

***Individually and on Behalf of All
Similarly Situated Employees***

v.

SYNERGY ENTERPRISES, INC.
8757 Georgia Avenue
Suite 1440
Silver Spring, MD 20910

Serve: Prachee Jakatdar Devadas, R.A.
11233 Greenbriar Preserve Lane
Potomac, MD 20854

Defendant.

Class/Collective Action Claim

Jury Trial Requested

Civil Action No.:

CLASS AND COLLECTIVE COMPLAINT FOR WAGES OWED

JOLEARRA TSHITEYA, Plaintiff, by and through her undersigned counsel and The Law Offices of Peter T. Nicholl, on behalf of herself and all others similarly situated, hereby submits her Complaint against SYNERGY ENTERPRISES, INC., Defendant, to recover unpaid wages, liquidated damages, interest, reasonable attorneys' fees and costs under Section 16(b) of the Federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201, *et seq.* (hereinafter, "FLSA"); unpaid wages, liquidated damages, interest, reasonable attorneys' fees and costs under Maryland Wage and Hour Law, Md. Code Ann., Lab. & Empl. §§ 3-401, *et seq.* (hereinafter, "MWHL"); and unpaid wages, treble damages, interest, reasonable attorneys' fees and costs under the Maryland

Wage Payment and Collection Law, Md. Code Ann., Lab. & Empl. §§ 3-501, *et seq.* (hereinafter, “MWPCL”), and in support thereof, states as follows:

INTRODUCTION AND BACKGROUND

Defendant is in the business of logistical consulting. It serves government agencies and clients in the private sector. Defendant hired Plaintiff and other similarly situated employees to assist with the support of its clients. Plaintiff and others similarly situated were given the title of logistics coordinator (“coordinator(s)”). Their duties centered on administrative work.

Defendant failed to properly compensate Plaintiff and others similarly situated for their work. Defendant routinely denied Plaintiff and other coordinators overtime compensation. Overtime pay should have resulted from Plaintiff and others similarly situated working through their meal breaks and after their scheduled shifts. It was Defendant’s practice to discourage its employees from recording all of their work hours. Defendant’s practice deprived Plaintiff and others similarly situated of their wages.

Defendant possessed timekeeping software that enabled Plaintiff and other coordinators to accurately record their time. Plaintiff and other coordinators would utilize the software to log in when they arrived at work and log out at the close of their shifts. This was accomplished through an intranet line which required coordinators to sign in by using “task codes” specific to Defendant’s clients. The codes accurately recorded the time Plaintiff and other coordinators were at work. Each minute was accounted for.

Defendant did not utilize this timekeeping system for purposes of paying its coordinators. Defendant utilized this system for the sole purpose of billing clients. For its own payroll purposes, Defendant required Plaintiff and other coordinators to manually record their hours on timesheets.

Defendant instructed Plaintiff and other coordinators to not accurately record their time. Defendant repeatedly ordered Plaintiff and others similarly situated to report that they had worked fewer hours than they actually did. The timesheets were handwritten and had to be turned in to Defendant. Defendant could easily manipulate the hours reported. This was accomplished by requiring coordinators to rewrite their hours or having its agents do so directly.

Plaintiff and other similarly situated employees were typically scheduled to work at least forty (40) hours each week. Plaintiff and other coordinators were assigned a two (2) week rotating schedule. They were required to work either eighty (80), eighty-eight (88), or ninety (90) hours every two (2) weeks. Although Plaintiff and other coordinators were compensated for the overtime hours that were part of their assigned schedules, they were not compensated for any overtime that was not scheduled.

Defendant consistently confronted Plaintiff and others similarly situated whenever they attempted to report additional overtime hours. Defendant required that its employees record only the number of hours they were scheduled to work on their timesheets. Defendant routinely discouraged Plaintiff and others similarly situated from recording the hours they actually worked. Defendant explained this practice was based on budget concerns. Defendant explained that paying more overtime would cause it to exceed its budget. This resulted in Plaintiff and other coordinators to be consistently denied compensation.

Plaintiff and other coordinators were also denied compensation for other reasons. Plaintiff and others similarly situated were supposed to receive an uninterrupted one (1) hour meal break each day. However, various issues often prevented Plaintiff and other coordinators from actually taking their breaks. The primary issue was understaffing. Defendant had a very high turnover rate; due to

their demanding workload, coordinators often quit after short periods. Plaintiff and others similarly situated were often required to cover the work of those who had quit.

Defendant's other positions were also constantly understaffed. As a result, Plaintiff and other coordinators were forced to assume the duties of these other positions. This required the completion of additional tasks. The combination of all of their tasks required Plaintiff and others similarly situated to work non-stop. It became virtually impossible for Plaintiff and other coordinators to take their scheduled breaks.

Although they were regularly prevented from taking their breaks, Plaintiff and others similarly situated were routinely not paid for all their hours worked. Defendant consistently demanded its employees not to record the time they worked through lunch. This occurred on a weekly basis. Plaintiff can recall numerous times when she and others similarly situated attempted to record such time on their timesheets only to be instructed by Defendant to delete those hours. Therefore, Plaintiff's and other similarly situated employees' timesheets routinely reflected working fewer hours than they actually worked. This prevented Plaintiff and other coordinators from being compensated correctly for all of the overtime hours they worked.

Defendant was well aware of its illegal practices. Defendant was well aware that Plaintiff and others similarly situated routinely did not take their meal breaks. Defendant was aware that Plaintiff and other coordinators consistently worked unpaid overtime hours that were not part of their regular schedules. Defendant knew that its unlawful timekeeping policies resulted in its coordinators not being paid for all their work hours.

Defendant promoted these illegal policies by repeatedly reprimanding its employees for recording their true hours on their timesheets. This caused Plaintiff and others similarly situated to

stop recording their true hours. Fear of retaliation led them to comply with Defendant's unlawful practices.

These practices had the effect of regularly cheating Plaintiff and others similarly situated out of their wages. All Defendant's hourly employees have been affected by these practices. They have all been denied the wages they rightfully earned.

THE PARTIES

1. Plaintiff Jolearra Tshiteya (hereinafter, "Plaintiff") is an adult resident of Washington, D.C.

2. Defendant Synergy Enterprises, Inc., (hereinafter, "Defendant") is an incorporated for-profit business.¹

3. Defendant specializes in providing logistical support services.

4. The focus of Defendant's business is consulting.

5. Defendant provides managerial and administrative management consulting to both government agencies and private clients.

6. Defendant maintains its principal corporate office in Silver Spring, Maryland.

7. Upon information and belief, the unlawful practices discussed within this Complaint are implemented at all of Defendant's offices.

8. Due to the nature of its business, Defendant is subject to the FLSA, MWHL and the MWPCCL.

¹ Any reference to Defendant shall include its corporate officers and all those empowered to act as agents of the corporation either, explicitly or implicitly, or who are designated as agents under the doctrine of apparent agency. To the extent individual agents are responsible for any actions alleged in this Complaint, they are hereby incorporated by reference within the term "Defendant."

9. At all times relevant to this Complaint, Plaintiff engaged in interstate commerce by the nature of the duties she performed as part of her employment with Defendant.

10. Defendant is subject to the FLSA, MWHL and the MWPCCL due to the amount in revenues generated.

11. Defendant's annual dollar volume of business exceeds five hundred thousand dollars (\$500,000.00).

12. At all times relevant to this complaint, Defendant fell within the purview of the term "employer" under the FLSA, 29 U.S.C. § 203(d), the MWHL, § 3-401(b) and the MWPCCL, § 3-501(b).

13. Plaintiff and others similarly situated worked as non-exempt employees for Defendant.

14. Plaintiff and other similarly situated employees were all paid an hourly rate.

15. From approximately January 2014 until October 1, 2015, Plaintiff was employed with Defendant.

16. For the relevant period, Plaintiff held the title of logistics coordinator ("coordinator"). Other similarly situated employees were also given this title. Other members of the putative class held related positions.

17. Plaintiff's and other similarly situated employees' duties centered on administrative tasks. Plaintiff's and all members of the putative class' tasks consisted of routine clerical work.

18. At all times relevant to this Complaint, Defendant controlled the administration of its business and set employee schedules, including the schedules of Plaintiff and other similarly situated employees.

19. Defendant possessed and exercised authority to determine the hours worked by Plaintiff and others similarly situated.

20. Defendant controlled and supervised the work performed by Plaintiff and other coordinators.

21. Defendant was actively engaged in the management and direction of Plaintiff and members of the putative class.

22. Defendant had the power and authority to change the course of Plaintiff's and other similarly situated employees' duties.

23. Defendant made all decisions relating to Plaintiff's and other similarly situated employees' rate and method of pay.

24. Plaintiff and all those similarly situated recognized Defendant's authority and obeyed Defendant's instructions.

JURISDICTION AND VENUE

25. Original jurisdiction in this Honorable Court is expressly provided by the FLSA, 29 U.S.C. § 216(b). This Court also has subject matter jurisdiction under 28 U.S.C. § 1331, as this matter presents a federal question.

26. Discretionary supplemental jurisdiction of Plaintiff's Maryland state law claims is provided by 28 U.S.C. § 1367(a); the state law claims form part of the same case or controversy and derive from a common nucleus of operative facts, on which Plaintiff's federal claims are based.

27. No reasons exist that would force this Honorable Court to decline jurisdiction; the state law claims (i) do not raise novel or complex issues of state law, (ii) do not substantially predominate the claims over which this Honorable Court has original jurisdiction, and (iii) no

exceptional circumstances exist that would constitute a compelling reason for declining jurisdiction, thereby satisfying 28 U.S.C. 1367(c).

28. Pursuant to 28 U.S.C. § 1391(b), venue is appropriate; the unlawful acts central to this matter occurred primarily within the State of Maryland.

29. This Honorable Court has personal jurisdiction over Defendant. Defendant is incorporated under the laws of Maryland and conducts sufficient business within the forum state so as to constitute a submission to its laws.

FACTUAL ALLEGATIONS FOR ALL CLAIMS

30. Defendant is a professional consulting firm.

31. Defendant specializes in providing logistical support services to its clients.

32. Defendant serves federal agencies and clients in the private sector.

33. Defendant hired Plaintiff and other similarly situated employees to perform various tasks for its clients. All of these tasks were administrative in nature.

34. From approximately January 2014 until October 1, 2015, Plaintiff was employed with Defendant.

35. For the duration of her employment, Plaintiff worked at Defendant's headquarters in Silver Spring.

36. Plaintiff held the title of logistics coordinator (hereinafter, "coordinator").

37. Plaintiff and other coordinators were charged with assisting Defendant's clients with various projects. Their activities centered on providing administrative support services to ensure projects were completed in a timely manner.

38. Much of Plaintiff's and other coordinators' work consisted of routine office duties. This included faxing and digitally filing paperwork on behalf of Defendant's clients.

39. Defendant also regularly directed its coordinators to perform cold calls. The majority of these calls were for the purpose of obtaining funding for grants.

40. A large part of Plaintiff's and other coordinators' tasks consisted of having to prepare for meetings with clients. This entailed sending out invitations, registering participants and confirming reservations for those participants.

41. Plaintiff and other coordinators also had to prepare materials for these meetings. This included setting up conference tables and reserving meeting areas. They were all responsible for printing and organizing name badges and other meeting materials.

42. Plaintiff and other similarly situated employees had to provide on-site support at the meetings. They were required to take notes and prepare the minutes. They were also responsible for answering any questions the participants had.

43. Due to all of the planning involved with the meetings, issues arose constantly. Plaintiff and other coordinators were tasked with handling the various issues. There were steadfast deadlines associated with these tasks.

44. It was Defendant's practice to understaff its office. Because of this practice, Plaintiff and other coordinators were required to complete tasks that were not included in their original responsibilities.

45. The majority of these tasks were assigned to the "meeting planner" position. Meeting planners were primarily responsible for making travel and lodging arrangements for Defendant's clients.

46. Defendant's failure to adequately staff the meeting planner position caused Plaintiff and other coordinators to assume these tasks. This resulted in Plaintiff and other coordinators having to regularly coordinate travel arrangements for meeting presenters, speakers and sponsored

participants. Reserving flights and arranging hotel accommodations became an integral part of Plaintiff's and other coordinators' daily activities.

47. Understaffing also required Plaintiff and other coordinators to respond to inquiries from Defendant's clients related to various assignments. Defendant failed to hire a sufficient number of staff to assist with responding to these inquiries.

48. Plaintiff and others similarly situated were required to work hours outside of their regular schedule in order to complete all of their assignments. Defendant's managers enforced this requirement.

49. Plaintiff's and other similarly situated employees' duties were performed at the discretion of Defendant's managers.

50. Plaintiff and others similarly situated had to follow Defendant's instructions.

51. Plaintiff and others similarly situated had no discretion in the performance of their tasks.

52. Their duties were always carried out in accordance with Defendant's strict protocols. Defendant required Plaintiff and others similarly situated to follow these protocols.

53. Plaintiff and others similarly situated satisfied the requirements of their positions.

54. Plaintiff and others similarly situated performed their duties to the extent required by Defendant.

55. Plaintiff and other similarly situated employees performed their duties to the benefit of Defendant.

56. Defendant's employees were all paid in a similar manner.

57. Plaintiff and other similarly situated employees were all paid an hourly rate.

58. From approximately January 2014 until October 2015, Plaintiff received biweekly payments reflecting a pay rate of approximately thirteen dollars (\$13.00) per hour.

59. Plaintiff and other coordinators worked similar schedules. They were scheduled to work forty (40) to forty-five (45) hours each week. They were scheduled to work Monday through Friday.

60. Plaintiff and other coordinators were placed on a rotating schedule. Their schedules would change every two (2) weeks. It was typical for them to work nine (9) to ten (10) hours a day. Their schedules required them to work either eighty (80) eighty, eighty-eight (88), or ninety (90) hours each biweekly period.

61. Plaintiff and other coordinators were scheduled to report to work at 8:30 a.m. Plaintiff and others similarly situated were typically scheduled to leave work at 5:30 p.m. However, based on their rotation, they were often scheduled to leave later.

62. Plaintiff's and other similarly situated employees' schedules also included an unpaid one (1) hour meal break. They were supposed to receive this break each day they were scheduled to work.

63. During many pay periods, Plaintiff and others similarly situated worked well over their scheduled hours. Plaintiff and other coordinators were regularly scheduled to work forty-five (45) hours each week. They were consistently required to work even more.

64. Plaintiff and other coordinators had to track all of their work hours. Defendant implemented a timekeeping system that Plaintiff and others similarly situated were required to follow. The timekeeping system was specific to tracking the time spent with each of Defendant's clients.

65. The system was aligned with the particular project to which Plaintiff and other coordinators were assigned. When they “clocked in” in the morning, Plaintiff and others similarly situated were required to use the task code specific to each project. At the end of their shifts, they were also required to “clock out” using the same code.

66. For the duration of their employment, Plaintiff and other coordinators used this timekeeping software. The software accurately reflected the hours worked by Plaintiff and other coordinators.

67. Defendant did not use this software to pay its employees. The software was solely used for billing purposes. Defendant tracked the time its employees spent working for each client in order to bill clients in accordance with those hours.

68. It was Defendant’s policy to pay Plaintiff and other similarly situated employees in accordance with handwritten timesheets they submitted. Plaintiff and other similarly situated employees were responsible for completing these timesheets and turning them in at the end of each week.

69. It was Defendant’s practice to regularly cheat Plaintiff and other coordinators out of their pay. This was accomplished through unlawful payroll practices related to the timesheets.

70. For instance, Plaintiff and other similarly situated employees should have received a one (1) hour unpaid lunch break. Plaintiff and others similarly situated were supposed to receive this break each day they were scheduled.

71. Defendant ensured that this one (1) hour break was always reflected on Plaintiff and other similarly situated employees’ timesheets. However, Plaintiff and other similarly situated employees did not always receive their meal break.

72. Plaintiff and other similarly situated employees regularly worked straight through their scheduled breaks.

73. Due to understaffing, Plaintiff and other coordinators had to regularly work through lunch.

74. Because Defendant did not have all of its positions staffed, Plaintiff and other coordinators were frequently required to assume the duties associated with other positions. Taking on the tasks of other positions regularly required Plaintiff and other coordinators to work through lunch.

75. Defendant prohibited Plaintiff and others similarly situated from recording the time they worked through lunch. Defendant's agents scolded Plaintiff and other coordinators for recording the time they actually spent working during their break. It was Defendant's practice to delete this time altogether. This was completed by erasing any hours that Plaintiff and other similarly situated employees recorded which showed them working through lunch.

76. Due to Defendant's unlawful practice, Plaintiff and other coordinators were routinely not compensated for the time they spent working through lunch. Defendant's wage violations had the effect of consistently denying its employees the payments they should have received.

77. Similar violations occurred throughout Plaintiff's employment. These violations also resulted in Plaintiff and members of the putative class to be denied payment for working through their breaks.

78. For instance, Defendant made clear that tending to the needs of clients was a top priority. This priority often prevented Plaintiff and others similarly situated from taking their scheduled breaks.

79. Defendant failed to hire enough staff to cover its extensive client list. There were numerous tasks that had to be completed on behalf of each client. There were simply too many tasks and not enough employees. Due to these conditions, Defendant expected Plaintiff and other similarly situated employees to regularly work through lunch.

80. Defendant's expectations were even higher in September, December and early spring. These were Defendant's "busy seasons." These seasons coordinated with the start of the school year and the close of the fiscal year.

81. During these times, Plaintiff and other coordinators worked through their breaks even more frequently. However, Defendant still demanded that Plaintiff and others similarly situated not record their true time; they continued to be denied compensation for the time they spent working through their breaks.

82. As a result of Plaintiff and others similarly situated consistently working through lunch, they were not compensated correctly for all of their overtime hours. One (1) to five (5) hours of compensable time were regularly deducted from their pay each week.

83. Although Plaintiff and others similarly situated would regularly record the time they spent working through lunch, they were reprimanded for recording their true hours.

84. Defendant's agents routinely discouraged Plaintiff and others similarly situated from putting any more than their scheduled hours on their timesheets. Defendant explained that this was based on budget quotas it could not exceed. Defendant stated that allowing Plaintiff and other similarly situated to document their true hours worked would result in overbilling clients. Therefore, Defendant directed Plaintiff and other coordinators to eliminate the time they spent working through their breaks from their timesheets.

85. Plaintiff frequently made Defendant aware of the various issues that prevented her and others similarly situated from taking their breaks. Plaintiff made clear that many of her overtime hours were the direct result of having to work through lunch.

86. Even with Plaintiff's repeated complaints, no action was ever taken. Defendant continued to cheat Plaintiff and others similarly situated out of the time they spent working through their breaks.

87. Due to Defendant's unlawful practices, Plaintiff began to stop recording her true hours on her timesheets. Others similarly situated stopped recording their true hours as well. Fear of reprimand caused Plaintiff and others similarly situated to stop recording all of the hours they worked. This prevented Plaintiff and other coordinators from receiving all the compensation they earned.

88. They were denied compensation for other reasons as well. Although Plaintiff and other coordinators were typically scheduled to work until 5:30 p.m., various issues often prevented them from leaving at their scheduled times.

89. For instance, there were numerous tasks Plaintiff and others similarly situated had to complete in order to prepare for client meetings. Plaintiff and others similarly situated were required to complete all tasks prior to each event. This often required Plaintiff and other similarly situated employees to remain at work well after 5:30 p.m.

90. Meetings were also regularly scheduled on the weekends. Plaintiff and others similarly situated had to prepare for and attend these meetings as well. It was common for Plaintiff and other similarly situated employees to work on Saturdays and Sundays.

91. When it was required that they work on the weekends, or stay past the time they were scheduled to leave, it was routine for Plaintiff and others similarly situated to not be compensated

for their additional time. It was Defendant's practice to only compensate Plaintiff and other similarly situated employees for their scheduled hours.

92. To be compensated for any hours over those that were scheduled, employees had to first obtain approval. Otherwise, the employees would not receive any credit for their time.

93. Plaintiff and other coordinators were repeatedly denied approval. Again, Defendant explained this was due to budget concerns.

94. To meet the demands of their employers, Plaintiff and others similarly situated still had to work unscheduled overtime hours. This was regardless of the fact that the time was not approved. This regularly prevented Plaintiff and others similarly situated from being compensated for the additional work they performed.

95. Plaintiff often advised Defendant's managers of these shortcomings. Once again, these shortcomings were ignored. This resulted in Plaintiff and others similarly situated being consistently denied overtime pay.

96. There is no bona fide dispute that Plaintiff and others similarly situated are owed overtime wages for all hours worked over forty (40) each week.

97. At no time did Plaintiff and other similarly situated employees' duties include work that would make them exempt from the FLSA, MWHL and the MWPCCL provisions requiring that they be paid these wages.

98. Plaintiff and other coordinators were all hourly employees. This eliminates any argument that Plaintiff and those similarly situated were not entitled to overtime pay.

99. Defendant was well aware of the overtime hours worked by Plaintiff and others similarly situated.

100. Defendant's managers were regularly present in Plaintiff's and other similarly situated employees' work area.

101. Defendant's unlawful practices prevented Plaintiff and other similarly situated employees from being paid the overtime wages they earned.

102. Defendant enacted its unlawful practices to evade both Federal and Maryland wage laws.

103. Defendant's unlawful timekeeping system regularly cheated Plaintiff and other coordinators out of their pay.

104. Defendant was well aware that its system prevented Plaintiff and others similarly situated from being paid properly.

105. In bad faith, Defendant suffered and/or permitted Plaintiff and others similarly situated to work without proper compensation.

106. Thus, on behalf of herself and others similarly situated, Plaintiff seeks the overtime wages to which they are entitled and all other available relief through this Complaint.

FLSA COLLECTIVE ACTION ALLEGATIONS

107. Plaintiff commences this collective action against Defendant on behalf of herself and those similarly situated.

108. "Those similarly situated" include Defendant's logistics coordinators and other employees that held similar positions.

109. Upon information and belief, Plaintiff and those similarly situated were all subject to the unlawful practices described in this Complaint.

110. These similarly situated employees are all members of the putative collective class.

111. The FLSA requires employers to compensate non-exempt employees such as Plaintiff and others similarly situated for all hours worked over forty (40) in a workweek.

112. Defendant knew that Plaintiff and similarly situated employees typically worked over forty (40) hours per week.

113. Defendant suffered or permitted Plaintiff, other logistics coordinators and similarly situated employees to work more than forty (40) hours per week.

114. Defendant knew or should have known that Plaintiff and those similarly situated were entitled to overtime pay for all hours worked over forty (40) in a workweek.

115. Defendant failed to compensate Plaintiff and other similarly situated employees correctly for the overtime hours they worked.

116. Plaintiff demands damages reflecting an overtime rate of not less than one and a half (1.5) times her regular rate of pay for all hours worked over forty (40) in any workweek within the applicable statute of limitations.

117. Plaintiff makes these same demands on behalf of all members of the putative collective class.

118. Plaintiff consents to be a party plaintiff in this matter; Plaintiff's consent form is attached to this Complaint as Exhibit A.

119. It is likely that other individuals will join Plaintiff during the litigation of this matter and file written consents to "opt in" to this collective action.

120. There are numerous similarly situated current and former employees of Defendant that have been harmed by Defendant's common scheme to underpay its employees and violate the FLSA.

121. These similarly situated persons are known to Defendant and are readily identifiable through Defendant's records.

122. Many of these similarly situated employees would benefit from the issuance of court-supervised notice, granting them the opportunity to join this lawsuit as members of the collective class.

123. Upon information and belief, others will choose to join Plaintiff in this action against Defendant in order to recover unpaid wages and other available relief.

CLASS ACTION ALLEGATIONS UNDER MARYLAND WAGE LAWS

124. Plaintiff brings this action Pursuant to Rule 23 of the Federal Rules of Civil Procedure.

125. Plaintiff brings this action on behalf of herself and other current and former employees that served as either logistic coordinators or worked in a similar position for Defendant and were subject to the following practices and policies:

126. Denial of overtime wages under MWHL for all hours worked over forty (40) in a single workweek; and

127. Denial of all wages owed to Plaintiff and other similarly situated employees at the termination of their employment in violation of the MWPCCL.

128. The classes Plaintiff seeks to represent are defined as:

- a. *MWHL Class*: All individuals who are or were employed by Defendant as a logistics coordinator, or in a similar position, for any period ranging from three (3) years prior to the filing of the instant Complaint to the present and who were not paid an overtime rate of "time and a half" their regular hourly rate for all hours worked over forty (40) in a workweek.

b. *MWPCL Class*: All individuals who were, but are no longer, employed by Defendant as a logistic coordinator, or in a similar position, for any period ranging from three (3) years from when the instant Complaint was filed to the present and who were not paid an overtime rate of “time and a half” their regular hourly wage rate for all hours worked over forty (40) in a workweek and thus, did not receive all wages owed to them before the termination of their employment.

129. *Numerosity*: The individuals in the class are so numerous that joinder of all members is impracticable. Although the precise number of such individuals is currently unknown, the class includes dozens of current and former employees who are readily identifiable through Defendant’s pay records.

130. *Commonality*: There are questions of law and fact common to the classes. Among the common questions of law and fact applicable to Plaintiff and the classes are:

- a. Whether the MWHL class is similarly situated because they were subject to Defendant’s common policy and practice of unlawful deductions;
- b. Whether Defendant employed the MWHL class within the meaning of MWHL;
- c. Whether Defendant violated MWHL by failing to pay Plaintiff and the MWHL class overtime compensation for hours worked in excess of forty (40) hours per workweek;
- d. Whether Defendant’s violations were willful;
- e. Whether Defendant employed the MWPCL class within the meaning of the MWPCL;

f. Whether Defendant failed to provide Plaintiff and other members of the MWPCCL class with all wages due at the time their employment ended; and

g. Whether Defendant is liable for damages claimed herein, including but not limited to, compensatory, liquidated or treble, statutory, interest, costs and attorneys' fees.

131. *Typicality*: Plaintiff's claims are typical of those of the classes. Each and every class member of both the MWHL class and the MWPCCL class work or worked as a logistics coordinator, or in another similar position, for Defendant. Understaffing required each and every MWHL class member to work through their scheduled breaks without compensation as a result of Defendant's unlawful timekeeping practices. The MWHL class members all utilized the same unlawful timekeeping system. Defendant's enforcement of this system had the effect of reducing the compensable time they worked over their scheduled hours. This constitutes a direct violation of MWHL, as well as a subsequent violation of the MWPCCL.

132. *Adequacy*: Plaintiff will fully and adequately protect the interests of the classes. She seeks the same recovery as the classes, predicated upon the same violations of the law and the same damage theory. Plaintiff has also retained counsel who are qualified and experienced in the prosecution of statewide wage and hour class actions. Neither Plaintiff nor her counsel have interests that are contrary to, or conflicting with, the interests of the classes.

133. *Predominance*: The common issues of law and fact predominate over any individual issues. Each class member's claim is controlled by Maryland's wage and hour statutory scheme and one (1) set of facts. This is based on Defendant's failure to pay overtime as required by MWHL. Similarly, the damages are eminently certifiable in that Defendant's records will provide the amount and frequency each class member was paid.

134. This action is maintainable as a class action. The prosecution of separate actions by individual members of the classes would create a risk of inconsistent or varying adjudications with respect to individual members of the classes. This would establish incompatible standards of conduct for Defendant. If they were to pursue their claims separately, the numerous adjudications that would be required to protect the individual interests of the class members would constitute a drain and burden on judicial resources. Accordingly, the Court should certify the proposed classes.

CAUSES OF ACTION AND VIOLATIONS OF LAW

Against Defendant Synergy Enterprises, Inc.

Count I - Violation of the FLSA: Failure to pay overtime wages to Plaintiff and all members of the Collective Class who, during the course of this matter, opt-in to this lawsuit

135. Plaintiff hereby fully incorporates in this Count all allegations contained within Plaintiff's Complaint.

136. Plaintiff is entitled to overtime under 29 U.S.C. § 207(a), which provides that employers must compensate their employees for hours worked in excess of forty (40) in a workweek at a rate of not less than one and one-half (1.5) times the regular rate at which they are employed.

137. As described above, Plaintiff has not received from Defendant compensation reflecting the prescribed overtime wage rate for all hours worked in excess of forty (40) in a workweek; Defendant failed to compensate Plaintiff for these additional hours.

138. Defendant willfully and intentionally failed to compensate Plaintiff for the overtime wages she is owed.

139. There is no bona fide dispute that Plaintiff is owed overtime wages for work performed for Defendant.

140. Under the FLSA, Plaintiff is entitled to additional wages from Defendant to compensate her for the hours she worked in excess of forty (40) in a workweek at a rate of one and one-half (1.5) times her regular hourly wage rate.

141. All members of the putative Collective Class were subject to the same violations of the FLSA and thereby entitled to the same relief as described in this Complaint, which are herein restated on behalf of the putative collective class members.

Count II. Violation of MWHL: Failure to pay overtime wages to Plaintiff, all those that are joined as a party in this matter and all members of the MWHL Class

142. Plaintiff hereby fully incorporates in this Count all allegations contained within Plaintiff's Complaint.

143. Pursuant to Md. Code Ann., Lab. & Empl. § 3-415, each employer shall pay an overtime wage of at least one and one half (1.5) times the regular hourly rate.

144. Pursuant to Md. Code Ann., Lab. & Empl. § 3-420(a), an employer shall compute the wage for overtime under Md. Code Ann., Lab. & Empl. § 3-415 on the basis of each hour over forty (40) that an employee works during one (1) workweek.

145. Plaintiff has not received compensation from Defendant reflecting the prescribed overtime wage rate for all hours worked in excess of forty (40) in a week.

146. Defendant willfully and intentionally did not compensate Plaintiff for the overtime wages she is owed.

147. There is no bona fide dispute that Plaintiff is owed overtime wages for work performed for Defendant.

148. Under MWHL, Plaintiff is entitled to additional wages from Defendant for all overtime hours worked at a rate of one and one-half (1.5) times her regular hourly wage rate.

149. All members of the MWHL class and added parties were subject to the same violations of MWHL and thereby entitled to the same relief as described in this Complaint, which are herein restated on behalf of the putative MWHL class members and any added parties.

Count III - Violation of the MWPCPL: failure to pay wages owed at the termination of Plaintiff's employment, all those that are joined as a party and all members of the MWPCPL class

150. Plaintiff hereby fully incorporates in this Count all allegations contained within Plaintiff's Complaint.

151. Plaintiff is entitled to wages under the Maryland Wage Payment and Collection Law, Md. Code Ann., Lab. & Empl. §§3-501, *et. seq.*, which provides that each employer shall pay an employee all wages due for work that the employee performed before the end of employment, on or before the day on which the employee would have otherwise been paid the wages.

152. Plaintiff has not received compensation from Defendant for all wages owed for work performed before the termination of her employment as required by Md. Code Ann., Lab. & Empl. §3-505(a). This is specific to Defendant's failure to pay Plaintiff the overtime wages to which she is entitled.

153. Defendant willfully and intentionally did not compensate Plaintiff for the wages owed to her and continued to violate the MWPCPL, even after Plaintiff informed Defendant of the violation.

154. Under the MWPCPL, there is no bona fide dispute that Plaintiff is owed wages for work performed while employed by Defendant.

155. All members of the MWPCPL class and added parties were subject to the same violations of MWPCPL and thereby entitled to the same relief as described in this Complaint, which are herein restated on behalf of the putative MWPCPL class members and any added parties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and others similarly situated, prays for the following relief:

- a) In accordance with 29 U.S.C. § 216(b), designation of this action as a collective action on behalf of Plaintiff and those similarly situated;
- b) In accordance with Rule 23 of the Federal Rules of Civil Procedure, designation of this action as a class action on behalf of Plaintiff and members of the classes certified by motion during the course of this litigation;
- c) Ordering Defendant to disclose in computer format, or in print if no computer readable format is available, the names, addresses and emails of all those individuals who are similarly situated and permitting Plaintiff to send notice of this action to all those similarly situated individuals;
- d) Designating the named Plaintiff to act as a class representative on behalf of all similarly situated employees for the FLSA collective class;
- e) Designating the named Plaintiff to act as a class representative on behalf of all members of the classes certified during the course of this litigation;
- f) Judgment against Defendant for its failure to pay Plaintiff and those similarly situated in accordance with the standards set forth by the FLSA;
- g) Judgment against Defendant for its failure to pay Plaintiff and members of the MWHL class in accordance with the standards set forth by MWHL;
- h) Judgment against Defendant for its failure to pay Plaintiff, those appropriately joined to this matter and all members of the MWPCCL class in accordance with the standards set forth by the MWPCCL;
- i) Judgment against Defendant and classifying its conduct as willful and not in good faith;
- j) Judgment against Defendant and classifying Plaintiff, the collective class, those appropriately joined in this matter and members of all classes certified as non-exempt employees entitled to protection under the FLSA, MWHL and the MWPCCL;
- k) An award against Defendant for the amount of unpaid overtime wages owed to Plaintiff, those similarly situated and members of all classes certified, calculated at a rate that is not less than one and a half (1.5) times Plaintiff's, all other similarly situated employees' and members of all certified classes' regular hourly rate for all overtime hours worked;

- l) An award of liquidated or trebled damages equal to, or double, the total amounts of unpaid wages owed to Plaintiff, those similarly situated and members of all classes certified during the course of this litigation, whichever is deemed just and equitable by this Honorable Court;
- m) An award of reasonable attorneys' fees and all costs, plus pre-judgment and post-judgment interest, to be satisfied in full by Defendant;
- n) Leave to add additional plaintiffs to all claims by motion, through the filing of written consent forms, or any other method approved by this Honorable Court; and
- o) All further relief deemed just and equitable by this Honorable Court.

REQUEST FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff requests that a jury of her peers hear and decide all possible claims brought on behalf of Plaintiff and those similarly situated.

Respectfully submitted,

/s/ Benjamin L. Davis, III

Benjamin L. Davis, III (29774)

bdavis@nicholllaw.com

/s/ George E. Swegman

George E. Swegman (19444)

gswegman@nicholllaw.com

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Baltimore, Maryland 21201

Phone No.: (410) 244-7005

Fax No.: (410) 244-8454

Attorneys for Plaintiff

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Jolearra Tshiteya

(b) County of Residence of First Listed Plaintiff Washington, D.C. (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) Benjamin L. Davis, III, The Law Offices of Peter T. Nicholl, 36 S. Charles Street, #1700, Baltimore, MD 21201 (410) 244-7005

DEFENDANTS

Synergy Enterprises, Inc.

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

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

Attorneys (If Known)

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

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

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

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Contains various legal categories and checkboxes.

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
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Section 16(b) of the Federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201, et seq.
Brief description of cause: Failure to pay overtime wages.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 500,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 08/09/2017 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

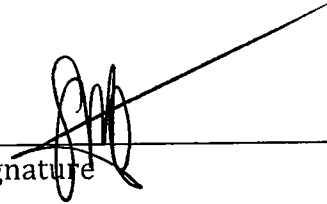
Printed name and title

Server's address

Additional information regarding attempted service, etc:

**NOTICE OF CONSENT TO BECOME A PARTY PLAINTIFF IN A
COLLECTIVE ACTION UNDER THE FAIR LABOR STANDARDS ACT**

By my signature below, I represent to the Court that I have been employed by Synovate Enterprises Inc and/or their parents, subsidiaries, and affiliated entities within the past three (3) years, that I have worked in excess of forty (40) hours during an individual workweek for the Defendant/s, and that I have not been paid all wages owed to me pursuant to 29 U.S.C. § 201, *et. seq.* I authorize through this Consent the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.



Signature

7.17.17

Date

Jolearra M. Tshiteya

Name of Party Plaintiff (Please print your name legibly)



ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Synergy Enterprises Overworks Employees Without Pay](#)
