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Attorneys for Defendant Micron Electronics, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.  
HINCKLEY, JACQUELINE T.  
HLADUN, MARILYN J. CRAIG,  
JEFFERY P. CLEVENGER, and  
TIMOTHY C. KAUFMANN, individually  
and on behalf of those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a  
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**STATEMENT OF UNDISPUTED FACTS  
IN SUPPORT OF MICRON  
ELECTRONICS, INC.'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT RE  
PLAINTIFFS' CLAIMS OF ALTERING  
EMPLOYEES' TIMECARDS**

Pursuant to Local Rule 7.1(b)(1), Defendant Micron Electronics, Inc. ("MEI"), by and through its counsel of record, hereby submits its Statement of Undisputed Facts in Support of Micron Electronics, Inc.'s Motion for Partial Summary Judgment Re Plaintiffs' Claims of Altering Employees' Timecards.

**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS,  
INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS  
OF ALTERING EMPLOYEES' TIMECARDS - 1**

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ORIGINAL

1. From June 1998 to May 2001, MEI used two different systems to keep track of hourly employees: the VAX system and the Me@micronpc.com system. MEI started tracking time with the VAX system. It required the employee to access a timecard at the "VAX" computer prompt and then enter the total daily hours worked. (First Affidavit of Gregory C. Tollefson in Support of Defendant's Response to Plaintiffs' Motion for Conditional Certification ("1st Tollefson Aff.") (Docket No. 122) Ex. B (Deposition Ex. 26 to the Deposition of James Wells ("Wells Depo.")).) The employees' computers would generate a VAX prompt that allowed the employees access to several programs and enabled employees and supervisors to record and review payroll information. (Affidavit of Nicole C. Hancock in Support of MEI's Motion for Partial Summary Judgment re Plaintiffs' Claims of Altering Employees' Timecards (Filed Under Seal) ("Hancock Aff.") ¶ 2 & Ex. A (Depo. Ex. 158 to the Deposition of David R. McCauley ("McCauley Depo.") at 51-52).)

2. The VAX system was designed to "allow[] team members and supervisors to enter time worked, *approve* hours entered, and request approval for hours entered." (*Id.* at 53 (emphasis added).) The VAX system tracked the number of hours an inside sales representative *actually* worked in a workweek. (*Id.*)

3. The Me@micronpc.com system, implemented in approximately January 2000 to replace the VAX system, tracked an employee's actual work time by requiring the employee to input his or her starting time each day, the total time away from his or her desk for any breaks or lunch time, and the ending time of each workday. (Hancock Aff. ¶ 3 and Ex. B (Depo. Ex. No. 6 to the Deposition of Michael B. Hinckley ("Hinckley Depo." at 1).) The Me@micronpc.com system would then automatically calculate the total time worked for the day. (*Id.*) As a convenience and guide, the Me@micronpc.com system automatically provided a nine-hour shift

with a one-hour lunch break. (*Id.*) However, employees were instructed to accurately record all time worked and to modify the automatically generated timccard if necessary to reflect the actual time worked. (1st Tollefson Aff. Ex. C (Wells Depo. Ex. 27).)

4. When the VAX system was in place, MEI had an established timekeeping policy that applied to all nonexempt employees. (1st Tollefson Aff. Ex. B (Wells Depo. Ex. 26).) The timekeeping policy provided in pertinent part:

A. Non-exempt employees are expected to accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Time is recorded by accessing TIMESHEET at the VAX prompt and entering total daily hours worked.

B. Prior to submission of timesheets for supervisor approval, non-exempt employees are responsible for reviewing their timesheets to verify the accuracy of all time recorded.

C. In the event that there is an error in the amount of pay, non-exempt employees should promptly bring the discrepancy to the attention of their supervisor so that corrections can be made as quickly as possible.

D. Non-exempt employees are not required to use Time Off Plan (TOP) hours to reach their scheduled number of hours per day or to reach forty (40) hours per week. They can choose to take unpaid time away from work without using TOP hours; however, all time away from work must be approved in advance by the supervisor. Unscheduled time off requires the use of TOP hours, if available, to reach the scheduled number of hours regularly worked.

E. Altering, falsifying, tampering with time records, or recording time on another employee's timesheet may result in disciplinary action, up to and including termination.

(*Id.*) A very similar policy replaced this policy and became effective as of March 2001. (1st Tollefson Aff. Ex. C (Wells Depo. Ex. 27).)

5. MEI had an established overtime policy in 1999 that applied to all nonexempt employees. (Hancock Aff. ¶ 4 & Ex. C (Depo. Ex. 201 to the Deposition of Tracy Scott Wells).)

The overtime policy provided in pertinent part:

C. Overtime compensation is paid to all non-exempt employees in accordance with applicable federal and state wage and hour regulations. Ordinarily, overtime pay is calculated at one-and-one-half (1-1/2) times the regular rate of pay for all hours actually worked in excess of forty (40) hours in a scheduled work week.

D. Overtime pay is based on actual hours worked. Time off for holidays, vacation, illness, jury duty, bereavement, or any leave of absence will not be considered hours worked for purposes of calculating overtime.

....

F. Non-exempt employees are not allowed to work "off the clock." All time worked by a non-exempt employee (including overtime) must be accurately recorded for the week in which the work is performed.

(*Id.*) A nearly identical overtime policy replaced this and became effective as of March 2001.

(1st Tolcfson Aff. Ex. D (Hinckley Depo. Ex. 17).)

6. Plaintiffs stated that Kimberley Smith, Ryan Keen, and Michael Moser had their timecards altered. (See Second Amended Complaint (Docket No. 94) ¶¶ 2, 3, 44; Plaintiffs' Statement of Material Facts at 15-16 (Docket No. 77); Plaintiffs' Brief in Support of Motion for Conditional Certification at 16 (Docket No. 76); Affidavit of William H. Thomas ("Thomas Aff.") (Docket No. 78) Ex. 13 (Affidavit of Kimberley Smith ¶ 12); Affidavit of Christopher F. Huntley ("Huntley Aff.") (Docket No. 79) Ex. 52 (Deposition of Michael Moser at 53:11-55:2, 118:7-22); Huntley Aff. Ex. 48 (Deposition of Ryan Keen at 211:7-212:10).) Giving Plaintiffs the benefit of the doubt and reading their testimony, only four other claimants offer a suggestion that their timecards were altered or that they knew of an alleged timecard alteration by a supervisor. (Thomas Aff. Ex. 14 (Affidavit of Cheryl Stumph ¶ 15); Huntley Aff. Ex. 45

**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS OF ALTERING EMPLOYEES' TIMECARDS - 4**

(Deposition of Marilyn J. Craig at 101:1-14); Hancock Aff. ¶ 8 and Ex. G (Deposition of Rickey Ferrara at 20:14-17); Hancock Aff. ¶ 13 and Ex. L (Deposition of Jacqueline Hladun (Volume II) at 13:16-14:8).)

7. Notwithstanding MEI's extensive discovery, including interrogatories, requests for production, requests for admission, and thirty-four depositions, Plaintiffs provide no factual data, documents, or any other admissible evidence or any other proof, to support their allegations of timecard alterations.

8. Fourteen former MEI sales representatives attested to the following statement:

I also understood that the policies of Micron Electronics and [MCCS, MPC, and MGCS] prohibited employees from altering, falsifying or tampering with time records. I am not aware of any of my supervisors or anyone else in management improperly altering or changing the time I submitted for the purpose of reducing the amount of work time or overtime I recorded.

(Affidavit of Kim J Dockstader (Filed Under Seal) ("Dockstader Aff.") (Docket No. 125) Ex. A (Affidavit of Rudeena E. Ballantyne ¶ 6); Dockstader Aff. Ex. B (Affidavit of Douglas V. Eason ¶ 6); Dockstader Aff. Ex. C (Affidavit of Miguel A. Flores ¶ 6); Dockstader Aff. Ex. D (Affidavit of Brian A. Friel ¶ 6); Dockstader Aff. Ex. E (Affidavit of Benjamin K. Jenkins ¶ 6); Dockstader Aff. Ex. F (Affidavit of Niklas F. Kopp ¶ 6); Dockstader Aff. Ex. G (Affidavit of Stephen E. Laats ¶ 6); Dockstader Aff. Ex. H (Affidavit of James Ryan Miller ¶ 6); Dockstader Aff. Ex. I (Affidavit of Jeremy Todd Points ¶ 6); Dockstader Aff. Ex. J (Affidavit of Clint J. Pulsipher ¶ 6); Dockstader Aff. Ex. K (Affidavit of Jason W. Salisbury ¶ 6); Dockstader Aff. Ex. L (Affidavit of Brenton E. Schiefelbein ¶ 6); Dockstader Aff. Ex. M (Affidavit of Sandra K. Wolfe ¶ 6); Dockstader Aff. Ex. N (Affidavit of Chaun J. Stone ¶ 6).)

**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS OF ALTERING EMPLOYEES' TIMECARDS - 5**

9. Additional sales representatives, who are also class members, admit that they have no knowledge of timecard alterations. The following salespersons were deposed and admitted that they had no knowledge of timecard alterations: Ken Ford, Mathew Jarama Ell, Laura Anderson, Carren Mattson, Laurie (Paine) McGeorge, Linda Lee, Rory Kip DeRouen, Dale Hope, Eric Fillmore, Kevin Henderson, Jared Hodges, Timothy Kaufmann, David Allen Thom, Michelle Saari, Matt Hagman, and David Kestner. (See Second Affidavit of Gregory C. Tollefson in Support of Defendant's Response to Plaintiffs' Motion for Conditional Certification (Filed Under Seal) ("2nd Tollefson Aff.") (Docket No. 124) Ex. F (Deposition of Kennan D.E. Ford at 94:24-95:7); 2nd Tollefson Aff. Ex. E (Deposition of Mathew Jarama Ell at 105:2-11, 106:15-23, 105:9-105:11); 2nd Tollefson Aff. Ex. A (Deposition of Laura H. Anderson at 34:20-24); 2nd Tollefson Aff. Ex. L (Deposition of Carren Renee Mattson Seibert at 55:20-23); Huntley Aff. Ex. 50 (Deposition of Laurie A. McGeorge at 33:6-15); Huntley Aff. Ex. 49 (Deposition of Linda Lee at 83:11-84:5); Hancock Aff. ¶ 7 and Ex. F (Deposition of Rory Kip DeRouen at 81:11-13, 99:25-100:10); Hancock Aff. ¶ 9 and Ex. H (Deposition of Eric Fillmore at 27:21-23, 29:17-30:4); Hancock Aff. ¶ 15 and Ex. N (Deposition of Dale Hope at 94:4-95:14); Hancock Aff. ¶ 11 and Ex. J (Deposition of Kevin Mark Henderson at 87:7-9; 91:5-9); Hancock Aff. ¶ 14 and Ex. M (Deposition of Jared Hodges at 25:12-19, 27:20-24, 42:4-7); Hancock Aff. ¶ 16 and Ex. O (Deposition of Timothy Kaufmann (Volume II) at 24:1-8); Hancock Aff. ¶ 20 and Ex. S (Deposition of David Allen Thom at 69:2-20); Hancock Aff. ¶ 19 and Ex. R (Deposition of Michelle Saari at 79:9-80:11); Hancock Aff. ¶ 10 and Ex. I (Deposition of Matt Hagman at 53:12-56:14); Hancock Aff. ¶ 17 and Ex. P (Deposition of David Kestner at 47:2-8).)

10. Former MEI supervisors who supervised the class members swear under oath that they did not alter any employee's timecard in order to reduce wages. (Affidavit of Marcus J.

**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS OF ALTERING EMPLOYEES' TIMECARDS - 6**

Auchampach ("Auchampach Aff.") (Docket No. 109) ¶¶ 6, 10 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours." and "my supervisors never altered my timesheets for the purpose of reducing my overtime hours."); Affidavit of Kimberly Boschee (Docket No. 110) ¶ 7 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Declaration of William C. Brakeman ("Brakeman Decl.") (Docket No. 120) ¶ 5 ("I never manually went into the system and changed an inside sales representative's time."); Affidavit of Dominic Casey (Docket No. 111) ¶ 9 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Affidavit of Larry Chase ("Chase Aff.") (Docket No. 113) ¶ 7 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Affidavit of Jay Church ("Church Aff.") (Docket No. 114) ¶ 10 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Affidavit of Mark A. Cox (Docket No. 115) ¶ 10 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Declaration of Jay W. Ellis (Docket No. 108) ¶ 12 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Affidavit of David J. Groeger (Docket No. 116) ¶ 7 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours."); Affidavit of David R. McCauley (Docket No. 118) ¶ 7 ("supervisors in my division never altered inside sales representatives [*sic*] timesheets for the purpose of reducing overtime hours."); Affidavit of Jaime Nava ("Nava Aff.") (Docket No. 117) ¶¶ 8, 13 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours." and "[M]y supervisors approved all of the overtime I submitted."); Affidavit of Anthony Robinson (Docket No. 112) ¶ 7 ("I never altered an inside sales representative's timesheet for the purpose of reducing overtime hours.")

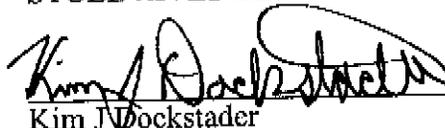
**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS OF ALTERING EMPLOYEES' TIMECARDS - 7**

11. The only evidence of any timecard "alterations" was offered by MEI, showing that timecards were properly and legally modified to reflect the actual number of hours worked by employees. (Auchampach Aff. ¶ 6 ("If an inside sales representative forgot to include TOP time (time off) on their timesheet, I would add the time after I had spoken with the inside sales representative face to face or via e-mail."); Brakeman Decl. ¶ 5 ("I did, on occasion, have to make a request to the payroll department that someone's time be changed because, for example, the employee might have been ill on a particular day and didn't have time or weren't [sic] available to put in the correct hourly information."); Chase Aff. ¶ 7 ("The only situation that would have prompted me to alter a timesheet would be if someone had forgotten to properly note time away from the office or overtime on his or her timesheet. Even then, I would not change the timesheet until I had first spoken with the employee."); Church Aff. ¶ 10 ("The only situation that would have prompted me to alter an inside sales representative's timesheet would have been if an inside sales representative was ill or on vacation and had forgotten to submit their timesheet."); Huntley Aff. Ex. 41 (Deposition of David J. Groeger at 64:1-5) (Altering time required a change request form, rather than actually adjusting time on the computer screen.); Nava Aff. ¶ 11 ("Attached . . . is a true and correct copy of a timesheet adjustment I submitted on behalf of Ms. Smith in December of 2000. Ms. Smith was unable to submit her time because she was out of town for a funeral."))

12. Plaintiffs have not refuted MEI's attestations, testimony, or evidence.

Dated this 21<sup>st</sup> day of June, 2004.

STOEL RIVES LLP



Kim J. Dockstader  
Attorneys for Defendant Micron Electronics, Inc.

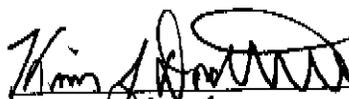
**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS OF ALTERING EMPLOYEES' TIMECARDS - 8**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21<sup>st</sup> day of June, 2004, I caused to be served a true copy of the foregoing **STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MICRON ELECTRONICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE PLAINTIFFS' CLAIMS OF ALTERING EMPLOYEES' TIMECARDS** by the method indicated below, addressed to the following:

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