

ORIGINAL

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U.S. DISTRICT COURT
DISTRICT OF IDAHO
BOISE, IDAHO
FILED 13 02 5 19
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH and MICHAEL B.)
HINCKLEY, individually and on behalf)
of those similarly situated,)
)
) Plaintiffs,)
vs.)
)
) MICRON ELECTRONICS, INC., a)
) Minnesota corporation,)
)
) Defendant.)
_____)

Case No. CIV 01-0244-S-BLW

PLAINTIFFS' STATEMENT
OF MATERIAL FACTS

In support of Plaintiff's motion for conditional certification of a class, Plaintiff's submit the following Statement of Material Facts.

I. Micron Electronics, Inc.

A. Ownership and Structure.

Micron Electronics, Inc. was formed through the April 7, 1995 merger of three businesses: Micron Computer, Inc., Micron Custom Manufacturing Services, Inc., and ZEOS International, Ltd. See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

As of August 31, 2000, Micron Electronics, Inc. wholly (100%) owned a number of subsidiaries, including: MEI California, Inc., Micron Electronics (H.K.) Limited, Micron Electronics Overseas Trading, Inc., Micron PC, Inc., Micron Commercial Computer Systems, Inc., Micron Government Computer Systems, Inc., Micron Computer Services, Inc., SpecTek Products, LLC, Micron Electronics International, Inc., Micron Computer of Canada, Inc., HostPro, Inc. (formerly Micron PC Web Services, Inc.), NetLimited, Inc., d.b.a. HostPro, Micron Internet Services, Inc., Micron Electronics Asia-Pacific Holdings, Inc., Micron Electronics Asia-Pacific Operations, Inc., Micron Electronics Asia-Pacific Trading, Ltd., Worldwide Internet Publishing Corporation, LightRealm, Inc. See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

In addition, Micron Electronics, Inc. was issued an assumed business name certificate for the name "micronpc.com" by the Secretary of State for the State of Idaho. See Exhibit 9, Affidavit of Christopher F. Huntley, Assumed Business Name Certificate.

B. Financial Reporting.

Micron Electronics, Inc. reports the activity of all its subsidiaries identified above in consolidated financial statements with the Securities and Exchange Commission (SEC). See

Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

C. Business Activity and Business Segments.

Micron Electronics, Inc. and its subsidiaries (collectively the "Company") is a computing company which provides computer products and services, Internet offerings, Web hosting and business-to-business e-commerce applications for small-and medium-sized businesses, government, education and retail markets. Under the brands micronpc.com, VelocityNet Direct ("VND"), HostPro and SpecTek, the Company offered a wide range of innovative products, services and support. The Company had three business segments: PC Systems, HostPro and SpecTek. The primary products of the PC Systems business included a wide range of desktop and notebook systems, multiprocessor network servers and hardware services. HostPro focused on Internet access and Web hosting. SpecTek processed and marketed various grades of memory products in either component or module form for specific applications. See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

The Company's PC Systems business develops, markets, manufactures, sells and supports a wide range of high performance desktop and notebook systems and network servers under the micronpc.com and NetFRAME brand names and sells, resells, and supports a variety of additional peripherals, software and services. See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

The Company's customers are comprised primarily of small -and medium-sized businesses, government entities and consumers. The Company markets the systems primarily via customer-direct relationships supported by advertising, direct mail, telephone sales, field sales

representatives and through our Web site. In addition, the Company sells computer systems through strategic relationships with third parties having large government procurement contracts. The Company's field sales force focuses primarily on soliciting and servicing the emerging "mid market" comprised of medium-size businesses, and on sales to public entities. See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

Consumers have historically referenced computer trade magazines, and more recently have begun utilizing information available on the Internet, to evaluate systems and configurations best suited to their particular needs. Our direct marketing approach is aimed toward personal computer users and companies who evaluate products based on performance, price, reliability, and service and support. The direct sales channel allows us to avoid dealer markups typically experienced in the traditional retail sales channel, limit inventory carrying costs and maintains closer contact with our target customers. Direct sales orders are received primarily via telephone, facsimile, Internet (www.micronpc.com) and through our direct sales force. The Company's sales representatives assist customers in determining system configuration, compatibility and current pricing. See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-K, for period ending August 31, 2000.

D. Principal Officers and Directors.

Micron Electronics, Inc. shares officers and directors with its subsidiaries.

The Principal officers and directors of Micron Electronics, Inc. as of August 31, 2000 were as follows:

Joel J. Kocher	Chairman of the Board of Directors, President and Chief Executive Officer
Jill D. Smith	Executive Vice President and Chief Operating Officer

Michael S. Adkins	Senior Vice President and Group General Manager
Savino R. "Sid" Ferrales	Senior Vice President, Human Resources
Lyle W. Jordan	Senior Vice President and Group General Manager
Jeffrey Moeser	Senior Vice President, Product Development
James R. Stewart	Senior Vice President and Chief Financial Officer
Steven P. Arnold	Vice President, Legal and General Counsel
Michael Gale	Vice President, Chief Web Officer
Harry B. Heisler	Vice President and General Manager, Micron Government Computer Systems, Inc.
Steve H. Laney	Vice President, Investor Relations
JoAnne S. Pfeifer	Vice President, Administration and Corporate Secretary
Mark Jones	Area Vice President, SpecTek
Steven R. Appleton	Director
John B. Balousek	Director
Robert Lee	Director
Robert A. Lothrop	Director

See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-k for year ended August 31, 2000.

The executive officers and directors of Micron Electronics, Inc. and their ages as of October 2, 1999, were as follows:

Joel J. Kocher,	Chairman of the Board of Directors and Chief executive Officer
Jill D. Smith	Executive Vice President, Chief Operating Officer
James R. Stewart	Senior Vice President, Finance and Chief Financial Officer
Michael S. Adkins	Senior Vice President, Micron PC, Inc.
Savino R. "Sid" Ferrales	Senior Vice President, Worldwide Human Resources
Lyle W. Jordan	Senior Vice President, Worldwide Supply Chain Operations
Steven P. Arnold	Vice President, Legal and General Counsel
Scott L. Bower	Vice President & General Manager, Micron Computer Services, Inc.
Stephen Brown	Vice President & Chief Information Officer
Harry B. Heisler	Vice President & General Manager, Micron Government Computer Systems, Inc.
Paul A. Amlani	Vice President, & General Manager, Micron Commercial Computer Systems, Inc.
JoAnne S. Pfeifer	Vice President, Administration, and Corporate Secretary
Michael Gale	Vice President, Chief Web Officer

Jeffrey Moeser	Vice President, Desktop and Server Development
Steven R. Appleton	Director
John B. Balousek	Director
Robert Lee	Director
Robert A. Lothrop	Director

See Exhibit 2, Affidavit of Christopher F. Huntley, Form 10-k for year ended August 31, 1999.

In addition, the following officers and directors concurrently served as officers and directors of the following subsidiaries:

Micron PC, Inc.,

Fiscal Year 2000

Michael S. Adkins, Division President, Director
Brian Hansen, Secretary
Registered Agent: Micron Electronics, Inc.

See Exhibit 7, Affidavit of Christopher F. Huntley, Annual Report Form 2000, Secretary of State, State of Idaho

Fiscal Year 1999

Michael Adkins, General Manager, Senior Vice President, Director
Brian T. Hansen, Secretary
Michael Gale, Director
Jill D. Smith, Director
Registered Agent: Micron Electronics, Inc.

See Exhibit 8, Affidavit of Christopher F. Huntley, Annual Report Form 1999, Secretary of State, State of Idaho

Micron Commercial Computer Systems, Inc.,

Fiscal Year 2000

Michael S. Adkins, Division President, Director
Brian Hansen, Secretary
Registered Agent: Micron Electronics, Inc.

See Exhibit 5, Affidavit of Christopher F. Huntley, Annual Report Form 2000, Secretary of State, State of Idaho

Fiscal Year 1999

Scott L. Bower, General Manager, Senior Vice President, Director
Brian T. Hansen, Secretary

Jill D. Smith, Director
Registered Agent: Micron Electronics, Inc.

See Exhibit 6, Affidavit of Christopher F. Huntley, Annual Report Form 1999,
Secretary of State, State of Idaho

Micron Government Computer Systems, Inc.,

Fiscal Year 2000

Harry B. Heisler, General Manager, Vice President, Director
G. Matthew Kochl, Secretary
Registered Agent: Micron Electronics, Inc.

See Exhibit 3, Affidavit of Christopher F. Huntley, Annual Report Form 2000,
Secretary of State, State of Idaho

Fiscal Year 1999

Harry B. Heisler, General Manager, Vice President, Director
Brian T. Hansen, Secretary
Jill D. Smith, Director
Registered Agent: Micron Electronics, Inc.

See Exhibit 4, Affidavit of Christopher F. Huntley, Annual Report Form 1999,
Secretary of State, State of Idaho

E. Physical Locations.

As of August 31, 2000, the Micron Electronics, Inc. corporate headquarters, PC systems manufacturing and SpecTek operations were based in a number of Company-owned or leased facilities in Nampa, Idaho aggregating approximately 620,000 square feet. In 2000, the company added 135,000 square feet of manufacturing space to the facility in Nampa, Idaho.

Approximately 350,000 square feet of the Nampa facilities were dedicated to PC manufacturing and approximately 97,000 square feet were dedicated to SpecTek operations. The balance of the Nampa facilities is dedicated to sales, technical support, customer service, administrative

functions and warehouse space. The company leased an 81,000 square foot facility in Minneapolis, Minnesota, dedicated primarily to system sales, technical support, field sales, and administrative functions. The company also lease a 74,000 square foot facility in Meridian, Idaho, dedicated to a call center.

HostPro leases several facilities which includes 25,600 square feet in Boise, Idaho, 34,300 square feet in Los Angeles, California, 4,200 square feet in Moses Lake, Washington, 43,800 square feet in Bellevue, Washington, 45,000 square feet in Tukwila, Washington, 1,200 square feet in Seattle, Washington and 12,000 square feet in Boca Raton, Florida.

Other leased facilities include a factory outlet in Boise, Idaho, a commercial sales office in New York, New York, a public relations office in San Francisco, California, and an International office in Taipei, Taiwan.

See Exhibit 1, Affidavit of Christopher F. Huntley, Form 10-k for year ended August 31, 2000.

F. Employee Manual. Micron Electronics, Inc. maintained a single Employment Policy Manual for the company and all of its subsidiaries and divisions. See Exhibit 12 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Michael J. Schoonveld; See Exhibit 17 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Christopher Wing; See Exhibit 6 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Don Hopkins; See Exhibit 4 of Affidavit of William H. Thomas containing Exhibit C of Affidavit of Eric Fillmore; See Exhibit 15 of Affidavit of William H. Thomas containing Exhibit C of Affidavit of Kurt Swanson; See Exhibit 14 of Affidavit of William H. Thomas containing

Exhibit B of Affidavit of Cheryl A. Stumph; See Exhibit 16 of Affidavit of William H. Thomas containing Exhibit E, I of Affidavit of Scott Wells; See Exhibit 1 of Affidavit of William H. Thomas containing Exhibit D of Affidavit of Laura Anderson; See Exhibit 8 of Affidavit of William H. Thomas containing Exhibit C of Affidavit of Michael G. Larscheid;

G. Infonet. Micron Electronics, Inc. maintained an intranet connecting all employees of the company, its subsidiaries, and divisions and maintained common policy manuals and information on the system. See Exhibit 12 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Michael J. Schoonveld; See Exhibit 17 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Christopher Wing; See Exhibit 6 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Don Hopkins; See Exhibit 4 of Affidavit of William H. Thomas containing Exhibit C of Affidavit of Eric Fillmore; See Exhibit 15 of Affidavit of William H. Thomas containing Exhibit C of Affidavit of Kurt Swanson; See Exhibit 14 of Affidavit of William H. Thomas containing Exhibit B of Affidavit of Cheryl A. Stumph; See Exhibit 1 of Affidavit of William H. Thomas containing Exhibit D of Affidavit of Laura Anderson.

The intranet was referred to as me@micronpc.com. See deposition of Jeffrey Clevenger, Page 69, Line 1-7. Micronpc.com is an assumed business name of Micron Electronics, Inc. See Exhibit 9, Affidavit of Christopher F. Huntley.

II. Employment Applications and Offers of Employment. All employees hired at any time since the inception of Micron Electronics, Inc. for any subsidiary or division of Micron Electronics, Inc., completed applications titled Micron Electronics, Inc. Employees offered positions were sent letters on Micron Electronics, Inc., letterhead and signed by Micron

Electronics, Inc., corporate employees. New hire packages included multiple documents for employees to sign, including payroll deduction authorizations, Telephone Guidelines, Confidential Information Agreements, Assignment of Inventions and Rights agreements, Non-Disclosure Agreements, Personal Computer Software Policies. See Exhibit 12 of Affidavit of William H. Thomas containing Exhibits A, C, D, E of Affidavit of Michael J. Schoonveld; See Exhibit 17 of Affidavit of William H. Thomas containing Exhibits A, C, D, E, F of Affidavit of Christopher Wing; See Exhibit 6 of Affidavit of William H. Thomas containing Exhibits A, C, D, E, F of Affidavit of Don Hopkins; See Exhibit 4 of Affidavit of William H. Thomas containing Exhibits A, B, D, E, F of Affidavit of Eric Fillmore; See Exhibit 15 of Affidavit of William H. Thomas containing Exhibits A, B, D, E, F, G of Affidavit of Kurt Swanson; See Exhibit 14 of Affidavit of William H. Thomas containing Exhibits A, C, D, E, F of Affidavit of Cheryl A. Stumph; See Exhibit 16 of Affidavit of William H. Thomas containing Exhibits A, B, D, F, G, H of Affidavit of Scott Wells; See Exhibit 2 of Affidavit of William H. Thomas containing Exhibits A of Affidavit of Michael Angus; See Exhibit 1 of Affidavit of William H. Thomas containing Exhibits A, B, C, E, F, G, H of Affidavit of Laura Anderson; See Exhibit 3 of Affidavit of William H. Thomas containing Exhibits A, B, C, D, E, F of Affidavit of Kip DeRouen; See Exhibit 8 of Affidavit of William H. Thomas containing Exhibits A, B, D, E, F, G of Affidavit of Michael G. Larscheid.

In July 1999, Deborah Monahan requested an employment verification letter and Micron Electronics, Inc. issued the letter stating that she was an employee of Micron Electronics, Inc. See Exhibit 11 of Affidavit of William H. Thomas containing Exhibit A, Affidavit of Deborah Monahan.

I. Sales Representatives.

Micron Electronics, Inc., through its PC Systems business segment, manufactured and sold personal computers, throughout the world, to consumers, small business, commercial businesses, federal government agencies, state agencies, and educational institutions. See Business Activities, *Infra*, above.

1. Job Titles. Persons employed to sell computers were divided into inside sales representatives and outside sales representatives. Inside sales representatives held various job titles including but not limited to:

Account Representative. See Exhibit 31, Affidavit of Christopher F. Huntley, document M005700.

Account Developer. See Exhibit 13, Affidavit of Christopher F. Huntley, document M003842.

Consumer Sales Representative. See Exhibit 22, Affidavit of Christopher F. Huntley, document M4366-67.

Corporate Sales Associate. See Exhibit 30, Affidavit of Christopher F. Huntley, document M5699.

Corporate Sales Representative. See Exhibit 32, Affidavit of Christopher F. Huntley, document M5735.

Commercial Inside Sales Representative. See Exhibit 11, Affidavit of Christopher F. Huntley, document M3795.

CSB Sales Representative. See Exhibit 17, Affidavit of Christopher F. Huntley, document M4012-13.

CSB Web Sales Representative. See Exhibit 18, Affidavit of Christopher F. Huntley, document M4053.

Direct Sales Associate. See Exhibit 20, Affidavit of Christopher F. Huntley, document M4172.

Direct Response Sales Representative. See Exhibit 27, Affidavit of Christopher F. Huntley, document M5553.

Direct Response Sales Associate. See Exhibit 8 of Affidavit of William H. Thomas containing Exhibit B, Affidavit of Michael G. Larscheid.

DDR Sales Associate. See Exhibit 15, Affidavit of Christopher F. Huntley, document M3857.

DRG Sales Representative. See Exhibit 19, Affidavit of Christopher F. Huntley, document M4072.

DRG Sales Associate See Exhibit 25, Affidavit of Christopher F. Huntley, document M4072.

DRG Account Representative. See Exhibit 12, Affidavit of Christopher F. Huntley, document M3811.

Federal Government Sales Representative. See Exhibit 26, Affidavit of Christopher F. Huntley, document M5521-22.

Inside Sales Representative. See Exhibit 1 of Affidavit of William H. Thomas containing Exhibit C, Affidavit of Laura Anderson.

Inside Account Executive. See Exhibit 2 of Affidavit of William H. Thomas containing Exhibit A, Affidavit of Michael Angus.

Inside Account Representative. See Exhibit 21, Affidavit of Christopher F. Huntley, document M4350.

Notebook Sales Representative. See Exhibit 14, Affidavit of Christopher F. Huntley, document M3845.

Part Sales Representative. See Exhibit 6 of Affidavit of William H. Thomas containing Exhibit A, Affidavit of Don Hopkins.

Sales Representative. See Exhibit 28, Affidavit of Christopher F. Huntley, document M5648.

Sales Representative State & Education. See Exhibit 24, Affidavit of Christopher F. Huntley, document M4555.

System Sales. See Exhibit 29, Affidavit of Christopher F. Huntley, document M5651.

Sales Associate. See Exhibit 23, Affidavit of Christopher F. Huntley, document M4486.

Small Business Sales Representative. See Exhibit 16, Affidavit of Christopher F. Huntley, document M3926-27.

Web Sales Representative. See Exhibit 15, Affidavit of William H. Thomas containing Exhibit B, Affidavit of Kurt Swanson.

While certain groups of Inside Sales Representatives were directed to focus on particular geographic locations and/or particular types of customers, all Inside Sales Representatives did essentially the same thing: sell computers by telephone.

2. Compensation. Inside Sales Representatives were paid an hourly basis. Nearly all Inside Sales Representatives participated in a commission plan in addition to hourly wages. Hourly rates varied and commission plans varied. See "Applications and Offers

of Employment, Supra.

II. Timekeeping for Hourly Inside Sales Representatives.

A. Record keeping.

Micron Electronics has employed a several timekeeping systems for its hourly employees since 1996, each of which is less likely to accurately record the time hourly employees actually worked than the last, and each change increasing the ability of employees to work hours in addition to those for which they were actually paid.

In 1996, Inside Sales Representatives were given an electronic security badge. As each employee entered or exited the work area he or she scanned his or her security badge through an electronic reader. The reader tracked the coming and going of the employee and the electronic record of those entries and exits constituted the timesheet for the employee and was the basis for his or her pay. Neither the employee or his or her supervisor had control over the time record and neither could manually change the record. See Deposition of Jay Ellis, Page 43, line 9-19.

In 1994, Zeos International, LTD, a predecessor of Micron Electronics, Inc. required employees to use a punch card in a time clock for the express purpose of tracking overtime. See Exhibit 33, Affidavit of Christopher F. Huntley, document M005746.

In approximately 1996, a company wide timekeeping system referred to as the VAX system was instituted. While employees continued to carry electronic badges and continued to swipe them through electronic reader upon each entry and exit from the meridian facility, the electronic records of such entry and exit from the work area no longer served as the basis for tracking hours worked. Employees manually entered their start and end time. See Deposition of

Jay Ellis, Page 48, Line 9-19..

The VAX system was a computer system that each Sales Representative accessed through a keyboard and computer monitor. There was no default entry and a Sales Representatives failure to complete the data entry would result in a time record with no hours recorded. See Deposition of Jay Ellis, Page 48, Line 9-19.

In approximately 1999, the payroll timesheet system was changed once again. See Deposition of Matthew Jaramic Ell, Page 47, Line 23 - Page 48, Line 9. Employees continued to scan security badges upon exit and entry to the facility but those records, as with the VAX system, were not a basis for timekeeping. The new system was accessed through the Micron Electronics intranet. Employees navigated to the appropriate timesheet screen where they would find a standard forty (40) hour week, with a defaulted eight hour day. See Deposition of Michael Hinckley, Page 289, Line 15-23. If the employee did nothing, a forty hour week timesheet was made available to his or her supervisor for approval. See Deposition of Mark Auchampach, Page 36, Line 23-25. If a supervisor did not review the timesheet, the default timesheet was automatically directed to payroll and the employee was paid based on the default forty hour week. See Deposition of Mark Auchampach, Page 38, line 23 - Page 39, Line 17.

B. Supervisor Alteration of Timecards.

In addition, it was the policy of Micron Electronics, Inc., with its me@micronpc.com records keeping system to authorize and direct supervisors to alter employee timecards. See Exhibit 10 to Affidavit of Christopher F. Huntley, document M2889, page from policy manual directing supervisors to adjust time cards as appropriate.

Kimberly Smith on two occasions identified that her supervisor, Jaime Nava, without her

knowledge or consent, altered her time card to reduce the hours she had submitted to him on her timesheet. See Exhibit 13 of Affidavit of William H. Thomas containing Affidavit of Kimberly Smith, paragraph 12.

Ryan Keen, who had Mark Auchampach as his primary supervisor during the calendar year 2000, discovered upon review of his final paystub for the calendar year 2000 that a total of twelve overtime hours were reported on his behalf when in fact he is certain that he had submitted more hours than 12 on his timesheets for that year. See Deposition of Ryan Keen, Page 110, Line 22-25, Page 111, Line 1-9.

Supervisors Jaime Nava (small business sales), William Brakeman (government sales), and Jarred Morrison (commercial sales), among others, acknowledged the ability to alter time cards on behalf of the people they supervised. See Deposition of Jaime Nava, Page 40, Line 15-21; Deposition of William Brakeman, Page 80, line 23-25, page 81, Line 1-8; Deposition of Jarred Morrison, Page 64, line 2-6.

III. Commissions/Bonuses and Overtime Premiums.

Micron Electronics, Inc. paid its sales representatives hourly wages and commissions/bonuses based on margin and/or sales.

Sales representatives employed prior to the fall of 1998 clearly recall the Company pay plan including an overtime component to commissions for those weeks when overtime was worked and commissions were earned. See Deposition of Ryan Keen, Page 75 In4- page 77, line 19.

Those same Inside Sales Representatives recall being informed in the fall of 1998 that the

company was specifically discontinuing the practice of including an overtime premium for commissions. See Deposition of Ryan Keen, Page 75 In4- page 77, line 19.

Paystubs for Inside Sales Representatives show no explicit overtime premium on commissions while they expressly show overtime pay calculated on base wages. See Exhibit 60 , Affidavit of Christopher F. Huntley, pay stubs for Kim Smith.

Isaac Moffett diligently matched commissions statements with paystubs and made multiple contemporaneous inquires to supervisors, managers, and human resources regarding discrepancies, i.e. pay being higher than expected. The consistent explanation from these sources was that the company was unable to calculate margins for commission statements with 100% accuracy and that the discrepancies were between the margin calculations of payroll and those for the commissions statements. See Deposition of Isaac Moffett, Page 212, Line 8 - Page 213, line 5.

IV. Employment Practices.

Pay structures for Inside Sales Representatives were substantially dependant upon commissions. The more sales made the more an Inside Sales Representative made. Inside Sales Representatives in every subsidiary and in every segment of every subsidiary worked hours in excess of those reflected on they paychecks. See Exhibit 13 of Affidavit of William H. Thomas containing Affidavit of Kim Smith, Paragraph 3, 6 (Small Business); Exhibit 7 of Affidavit of William H. Thomas containing Affidavit of Tim Kaufmann, Paragraph 2, 7 (Federal Sales); Deposition of Matthew Jaramic Ell, Paragraph 40, 14-16. (Commercial); Deposition of Isaac Moffett, Page 186, Line 3-19 (Consumer); Exhibit 15 of Affidavit of William H. Thomas

containing Affidavit of Kurt A. Swanson, Paragraph 9, 11 (State and Education); Deposition of Marilyn Craig, Page 62, line 20- page 63 line 6 (Minnesota location)

Kim Smith was hired July 17, 2000. She continued to work for the Company until it was sold to Gores in approximately June 2001. During her employment she worked as an inside sales associate selling computers to small businesses. The majority of Ms. Smith's income came from commissions. Ms. Smith was told that she could not record more than 47 hours of work in a week by her supervisor Jaime Nava. Ms. Smith regularly worked in excess of those hours without recording her actual hours worked on her timesheet and did so so that she could build her business to earn larger commissions. David McCauley and Jaime Nava were aware that she worked very long hours. Ms. Smith worked more hours than she recorded on her timesheets during the entire time she worked for the Company. See Exhibit 13 of Affidavit of William H. Thomas containing Affidavit of Kim Smith.

Mr. Nava, one of Ms. Smith's supervisor's, acknowledged in his deposition that he did not always review his employees timesheets before they were submitted to payroll and that while he was aware that he could use the security badge scans to verify his employees hours, he never did. See Deposition of Jaime Nava, page 39, line 10 - 18; Deposition of Jaime Nava, Page 53, line 7 - 16.

Michael Hinckley offered employment by Micron Electronics, Inc. On April 14, 2000. See Exhibit 16, Affidavit of Christopher F. Huntley, document M3926-27. Mr. Hinckley was left Micron Electronics, Inc., on May 31, 2000. See Deposition of Michael Hinckley, Page 257, Lines 18-23. Mr. Hinckley was told by his supervisor Jaime Nava that he could not record more than six hours of overtime on his timesheet and that if he did it would not be approved and he

would not be paid for the time worked. In addition, Mr. Nava encouraged him to work overtime to build his business to earn commission. See Deposition of Michael Hinckley, Page 110, Line 7-17. Mr. Hinckley adjusted his timesheet to reflect only six hours of overtime even though he had worked more hours. See Deposition of Michael Hinckley, Page 106, Line 12-18.

Mr. Moffett began working for Micron Electronics, Inc., in February of 1999 as a consumer sales representative. See Deposition of Isaac Moffett, January 14, 2002, Page 113, line 4-8. Later, Mr. Moffett worked selling computers to small business. Deposition of Isaac Moffett, Page 121, Line 10-14.

Mr. Moffett was aware of supervisors altering employees timecards to reduce overtime hours. See Deposition of Isaac Moffett, Page 187, line 2-14. Mr. Moffett's overtime hours that he could record were capped at certain times during his employment. See Deposition of Isaac Moffett, Page 188, line 21 - Page 189, line 3. Mr. Moffett worked through his lunch hours and on occasion did not record those hours. See Deposition of Isaac Moffett, Page 176, line 3-8.

Matthew Jaramie Ell began working for Micron Electronics, Inc., in January 11, 1999. Mr. Ell worked for the following the sales group referred to as the commercial group. Deposition of Matthew Jaramie Ell, Page 13, line 14-25. Mr. Ell worked off the clock for every supervisor and every group that he worked with at the Company. Mr. Ell was aware that his supervisors could have monitored his working hours either through his phone logs, his security badge reading, or by asking him. Deposition of Matthew Jaramie Ell, Page 134, Line 10-18

Mr. Timothy Kaufmann was employed at Micron Electronics from 1996 to 1999 and then again from June 2000 to September 2000. Mr. Kaufman worked in Corporate and Federal Sales. Mr. Kaufman worked on occasion in excess of fourth hours in a work week and did not record

that time. Exhibit 7 of Affidavit of William H. Thomas containing See Affidavit of Timothy Kaufmann, paragraphs 2, 7.

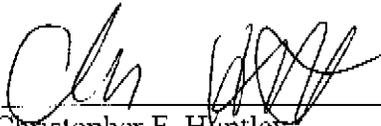
Ms. Tawni Weaver was employed at Micron Electronics, Inc., from October 2000 to May 2001. Ms. Weaver was a **sales manager** for a small business sales team. Ms. Weaver received no training regarding overtime monitoring or fair labor standards business practices until May 2 or 3, 2001, when she and at least 50 other managers were required to attend a mandatory managers training session on the Fair Labor Standards Act. Teresa Ball from Micron Electronics, Inc., human resources ran the meeting. Katrina McDaniels from Human resources was present as was Donna King from the Micron Electronics, Inc., in-house legal department. Ms. Weaver was informed that supervisors and managers had responsibility to monitor actual hours worked by employees and that sales representatives were not exempt. Ms. Weaver told Mr. Auchampach, a fellow manager, that she wasn't aware of anyone following those guidelines and that many sales representatives were working "off-the-clock". Mr. Auchampach said not to worry because they would not have to do any of the things mentioned. See Exhibit 18 of Affidavit of William H. Thomas containing Affidavit of Tawni Weaver.

Ms. Weaver followed up with Katrina McDaniels, Dominic Casey, and David McCauley regarding unpaid overtime practices of inside sales representatives. Ms. Weaver gathered evidence that problem was not limited to her team, but was present in every single team she investigated. Ms. Weaver proposed a company wide announcement that all employees must account for past unrecorded overtime by a certain date and that they would be paid for that overtime. Ms. Weaver was terminated within one week. See Exhibit 18 of Affidavit of William H. Thomas containing Affidavit of Tawni Weaver.

Mr. Keen recalls that in the fall of 1998 the overtime premium for commissions was removed from the pay plan. Deposition of Ryan Keen, page 76, line 22- page 77, line 2.

DATED this 13 day of February, 2002.

HUNTLEY, PARK, THOMAS, BURKETT,
OLSEN & WILLIAMS



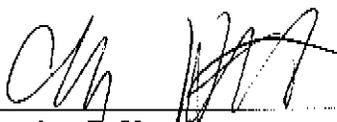
Christopher F. Huntley
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 13 day of February, 2002, a true and correct copy of the foregoing instrument was served upon opposing counsel as indicated below:

Kim J. Dockstader
Gregory C. Tollefson
STOEL RIVES LLP
101 S. Capitol Blvd., Suite 1900
Boise, ID 83702-5958

Via Hand Delivery
 Via Facsimile 389-9040
 Via U. S. Mail



Christopher F. Huntley