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U S DISTRICT &
 BANKRUPTCY COURTS
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 Cameron S. Burke, Clerk

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH and MICHAEL B.)	Case No. CIV 01-0244-S-BLW
HINKLEY, individually and on behalf of)	
those similarly situated,)	
)	ANSWER AND AFFIRMATIVE
Plaintiffs,)	DEFENSES
)	
vs.)	
)	
MICRON ELECTRONICS, INC., a)	
Minnesota corporation,)	
)	
Defendant.)	
)	

Defendant Micron Electronics, Inc. ("Defendant"), by and through its attorneys, Stoel Rives, LLP, hereby answers Plaintiffs' Amended Complaint and Demand for Jury Trial (the "Complaint") as follows.

Defendant denies all of the allegations in the Complaint which are not expressly admitted below.

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ANSWER TO "INTRODUCTION" SECTION

1. Defendant admits that it is a corporation organized under Minnesota law, and authorized to do business in Idaho. Defendant denies the remaining allegations of paragraph 1.
2. Defendant denies the allegations in paragraph 2.
3. Defendant admits that its policy is and has always been to pay hourly non-exempt employees for all hours actually worked, including overtime. Moreover, Defendant's policy prohibits non-exempt employees from working any unreported overtime. Defendant also admits that it prohibits non-exempt employees from working off the clock. Defendant denies the remaining allegations of paragraph 3.
4. Defendant denies the allegations of paragraph 4. Further, to the extent that paragraph 4 states a legal conclusion, no response is required.
5. Defendant denies the allegations of paragraph 5.

ANSWER TO "JURISDICTION AND VENUE" SECTION

6. No answer is required to paragraph 6, since it merely incorporates prior allegations. To the extent a response is required, Defendant incorporates by reference its answers to paragraphs 1 through 5, above.
7. Paragraph 7 states a legal conclusion to which no response is required. To the extent any response is required, Defendant denies that this Court has subject matter jurisdiction over it, as Defendant was not the employer of the Plaintiffs. Defendant denies the remaining allegations of paragraph 7.

8. Paragraph 8 states a legal conclusion to which no response is required. To the extent any response is required, Defendant denies that this Court has supplemental jurisdiction over it, as Defendant was not the employer of the Plaintiffs. Defendant denies the remaining allegations of paragraph 7.

9. Paragraph 9 states a legal conclusion to which no response is required. To the extent any response is required, Defendant denies the allegations in paragraph 9.

ANSWER TO "PARTIES" SECTION

10. No answer is required to paragraph 10, since it merely incorporates prior allegations. To the extent a response is required, Defendant incorporates by reference its answers to paragraphs 1 through 9, above.

11. Defendant denies that it is Plaintiff Kimberly Smith's employer. Defendant denies that Plaintiff Smith may bring this action on behalf of herself and a class of others similarly situated and denies the remainder of the allegations of paragraph 11.

12. Defendant denies that it is Plaintiff Smith's employer, and on that basis denies the remainder of the allegations of paragraph 12.

13. Defendant denies that it is Plaintiff Michael B. Hinkley's employer. Defendant denies that Plaintiff Hinkley may bring this action on behalf of himself and others similarly situated and denies the remainder of the allegations of paragraph 13.

14. Defendant denies that it is Plaintiff Hinkley's employer, and on that basis denies the remainder of the allegations of paragraph 14.

15. Plaintiff's allegations in paragraph 15 are not simple, concise, nor direct as required under Fed. R. Civ. P. Rule 8(e)(1). Further, the allegations in paragraph 15 are irrelevant to Plaintiffs' claims for relief and, in any event, are incorrect as of the filing of the Complaint. Accordingly, Defendant requests that all of the allegations in paragraph 15 be stricken and disregarded by the Court.

16. Defendant denies the allegations of paragraph 16.

17. Paragraph 17 states a legal conclusion to which no response is required. To the extent any response is required, Defendant denies the allegations in paragraph 17.

ANSWER TO "FACTUAL ALLEGATIONS" SECTION

18. No answer is required to paragraph 18, since it merely incorporates prior allegations. To the extent a response is required, Defendant incorporates by reference its answers to paragraphs 1 through 17, above.

19. Defendant denies the allegations in paragraph 19.

20. Defendant denies the allegations in paragraph 20.

21. Defendant denies the allegations in paragraph 21.

22. Defendant admits that its policy and practice (as applicable to its subsidiaries) was to pay hourly sales representatives overtime pay for all hours worked in excess of 40 in a scheduled work week. Defendant denies the remaining allegations of paragraph 22.

23. Defendant denies the allegations of paragraph 23.

24. Defendant denies the allegations of paragraph 24.

25. Defendant admits that hourly sales representatives were required by Defendant's

policy and practice (as applicable to its subsidiaries) to submit time records for all time worked on a weekly basis. Defendant admits that hourly sales representatives also were required by Defendant's policy and practice (as applicable to its subsidiaries) to record and submit all time worked, including overtime. Defendant denies the remaining allegations of paragraph 25.

26. Defendant denies the allegations of paragraph 26. Defendant's policy and practice (as applicable to its subsidiaries), with respect to hourly sales representatives receiving commissions, has been that the overtime pay calculation also includes payment of an overtime premium based on the representative's prior commissions. This overtime premium is included on a regular basis as part of the commission paid to each hourly sales representative.

27. Defendant denies the allegations of paragraph 27.

28. Defendant denies that Plaintiffs may bring this action on behalf of themselves and others similarly situated, and denies the remainder of the allegations of paragraph 28.

ANSWER TO "CLASS ALLEGATIONS" SECTION

29. No answer is required to paragraph 29, since it merely incorporates prior allegations. To the extent a response is required, Defendant incorporates by reference its answers to paragraphs 1 through 28, above.

30. Defendant denies the allegations of paragraph 30.

31. Defendant denies the allegations of paragraph 31.

32. Defendant denies the allegations of paragraph 32.

33. Defendant denies the allegations of paragraph 33 and all of its subparts.

34. Defendant denies the allegations of paragraph 34.

35. Defendant denies the allegations of paragraph 35.

36. Defendant denies the allegations of paragraph 36.

37. Defendant denies the allegations of paragraph 37.

38. Defendant denies the allegations of paragraph 38.

39. Defendant denies the allegations of paragraph 39.

ANSWER TO "CLAIM FOR RELIEF" SECTION

40. No answer is required to paragraph 40, since it merely incorporates prior allegations. To the extent a response is required, Defendant incorporates by reference its answers to paragraphs 1 through 39, above.

41. Defendant states that the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, speaks for itself. To the extent that paragraph 41 states a legal conclusion, no response is required. Defendant denies the remaining allegations of paragraph 41.

42. Defendant states that the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, speaks for itself. To the extent that paragraph 42 states a legal conclusion, no response is required. Defendant denies the remaining allegations of paragraph 42.

43. Defendant denies the allegations of paragraph 43 and all of its subparts.

44. Defendant states that the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, speaks for itself. To the extent that paragraph 44 states a legal conclusion, no response is required. Defendant denies the remaining allegations of paragraph 44.

45. Defendant admits that Plaintiffs purport to assert they are seeking class-wide relief. Defendant denies the remainder of the allegations of paragraph 45, including

specifically denying that Plaintiffs are entitled to any class-wide relief.

46. Defendant denies the allegations of paragraph 46.

47. Defendant denies the allegations of paragraph 47, and specifically denies that it has failed to pay the state-required minimum wage.

48. Defendant denies the allegations of paragraph 48.

ANSWER TO "PRAYER" SECTION

Defendant denies that Plaintiffs are entitled to any of the relief they seek.

ANSWER TO "JURY DEMAND" SECTION

Defendant objects that Plaintiffs may not be entitled to a trial by jury on all claims or issues, and hereby moves that Plaintiffs' jury demand be stricken or disregarded by the Court in whole or in part.

AFFIRMATIVE AND OTHER DEFENSES

1. The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.
2. Plaintiffs are not similarly situated to each other, to the putative class members, or to any other person or persons for purposes of the Fair Labor Standards Act ("FLSA").
3. Plaintiffs and the putative class members cannot satisfy the requirements for a collective action under the FLSA.
4. Plaintiffs and the putative class members cannot satisfy the requirements for maintaining a class action under Federal Rule of Civil Procedure 23 or other applicable law.

5. Plaintiffs and the putative class members have an adequate remedy at law. Consequently, injunctive and declaratory relief is inappropriate.

6. Defendant is not the employer of Plaintiffs or the putative class members.

7. Defendant had no knowledge of, nor should it have had any knowledge of, any alleged off-the-clock work by Plaintiffs or the putative class members, and it did not authorize, require, request, suffer, or permit such activity by Plaintiffs or the putative class members.

8. If any manager authorized, required, requested, suffered or permitted an hourly sales representative to work off-the-clock, such manager acted outside the scope and course of employment, in violation of Defendant's policy or practice (as applicable to its subsidiaries).

9. Defendant did not willfully, intentionally, recklessly or arbitrarily deprive any person who allegedly worked off-the-clock of any wages to which they were entitled under the FLSA or state wage laws.

10. Defendant at all times acted in good faith and with reasonable grounds for believing that it had not violated the FLSA or state wage laws.

11. Plaintiffs' and the putative class members' claims are barred by the doctrines of estoppel, unclean hands, waiver, laches, ratification, acquiescence, consent, accord and satisfaction, corrective action, reimbursement, payment and release.

12. Plaintiffs' and the putative class members' claims are barred by their own lack of good faith, breach of Defendant's policies and procedures (as applicable to its subsidiaries), breach of loyalty, misconduct, deception, breach of contract and fault.

13. Plaintiffs and the putative class members did not complain to Defendant regarding their alleged off-the-clock work.

14. All or part of the time for which Plaintiffs and the putative class members allegedly seek compensation does not constitute working time and is not compensable.

15. Plaintiffs' and the putative class members' claims are barred, in whole or in part, by the applicable federal and state statutes of limitations.

16. Any discipline of Plaintiffs and the putative class members was based on legitimate, nondiscriminatory reasons.

17. Defendant is entitled to a credit or set-off for any monies and/or products that Plaintiffs and the putative class members may have misappropriated or converted.

18. The Complaint fails to state a claim against Defendant upon which compensatory damages, liquidated damages or any other damages can be awarded.

19. Plaintiffs and the putative class members have failed to satisfy the prerequisites necessary for an award of back pay or compensatory, liquidated, or exemplary damages under applicable laws.

20. The Complaint fails to state a claim against Defendant upon which attorneys' fees or costs may be awarded.

21. Plaintiffs' and the putative class members' claims are barred, in whole or in part, by their prior breach of Defendant's policies, procedures and managerial directives.

22. On information and belief, some putative class members are properly classified as exempt employees under the FLSA and applicable state labor or wage laws.

23. Plaintiffs' and the putative class members' claims are barred, in whole or in part, as any wages due have been paid or overpaid. Defendant is entitled to a credit or offset for any additional compensation paid to Plaintiffs and the putative class members.

24. Plaintiffs' and the putative class members' claims are barred, in whole or in part, because any alleged underpayment has been reimbursed or is de minimus, and was made in good faith.

25. Defendant has taken no tangible employment action or adverse action against Plaintiffs and the putative class members. Defendant's policy and practice at all pertinent times was to exercise reasonable care to prevent or promptly correct unlawful behavior, if any. Plaintiffs and the putative class members have unreasonably failed to take advantage of Defendant's preventive or corrective opportunities or to otherwise avoid harm.

26. Plaintiffs' and the putative class members' claims are barred, in whole or in part, for failure to mitigate damages, including without limitation by voluntarily resigning and by failing to reasonably notify Defendant of any complaints despite the Defendant's policies, procedures and directives encouraging complaints and communication.

27. Plaintiffs' and the putative class members' claims are barred, in whole or in part, due to employee misconduct, insubordination, breach of loyalty and breach of fiduciary duty. Due to such misconduct, wages paid to Plaintiffs and the putative class members should be credited or set-off against any amounts allegedly owed for off-the-clock work.

28. Defendant is entitled to attorneys' fees, expenses and costs under applicable law including, but not limited to Idaho Code §§ 12-120 and 12-121.

29. Defendant reserves any and all defenses arising from or relating to the fact that Plaintiffs and the putative class members are or were “employees at will.”

30. Any claim for exemplary, punitive or liquidated damages is unconstitutional and barred under the *Kolstad* doctrine. (*See Kolstad v. American Dental Ass’n*, 527 U.S. 526 (1999).) Plaintiffs and the putative class members have not articulated any facts justifying an award of exemplary, punitive or liquidated damages and any such award would violate Defendant’s substantive due process and other rights under the Idaho and United States Constitutions. Further, such damages cannot be awarded on a theory of respondent superior. Moreover, exemplary, punitive or liquidated damages cannot be awarded due to Defendant’s good faith efforts to comply with the law and Plaintiffs’ and the putative class members’ bad faith in failing to notify Defendant of their concerns or claims, or to comply with supervisor responsibilities or Defendant’s policies, procedures and directives.

31. Exemplary damages are improperly pled in the Complaint, and Defendant reserves its right to seek a motion to strike such allegations under Idaho Code § 6-1604(2).

32. Defendant reserves the right to assert additional affirmative defenses or defenses of which it becomes knowledgeable during the course of discovery.

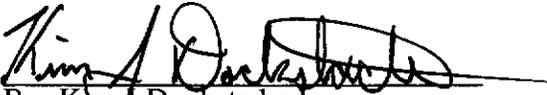
RELIEF REQUESTED

Defendant asks the Court to deny class certification; dismiss the Complaint in its entirety with prejudice; award Defendant its costs of suit, including attorneys’ fees, costs and

expenses associated with this action; and such other and further relief as this Court may deem just and proper.

Dated this 29th day of June, 2001

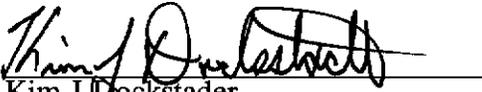
STOEL RIVES LLP


By: Kim Dockstader

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2001, a true and correct copy of the foregoing Answer and Affirmative Defenses was served on the following individuals by the manner indicated:

William H. Thomas	<input type="checkbox"/>	By Hand Delivery
Daniel E. Williams	<input checked="" type="checkbox"/>	By Facsimile
HUNTLEY, PARK, THOMAS, BURKETT, OLSEN & WILLIAMS	<input checked="" type="checkbox"/>	By U.S. Mail
250 S. Fifth Street Suite 660 Boise, Idaho 83701-2188	<input type="checkbox"/>	By Overnight Delivery


Kim J Dockstader