

ORIGINAL

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FILED
MAY -8 2002
CLERK OF DISTRICT COURT
IDAHO

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL)
B. HINCKLEY, JACQUELINE T.)
HLADUN, MARILYN J. CRAIG,)
JEFFERY P. CLEVINGER, 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

**AFFIDAVIT OF
DANIEL E. WILLIAMS
IN SUPPORT OF MOTION
FOR PROTECTIVE ORDER**

177

STATE OF IDAHO)
)ss.
County of Ada)

I, DANIEL E. WILLIAMS, being first duly sworn on oath, depose and say:

1. I am one of the counsel for Plaintiffs in this action and have personal knowledge of the facts and matters set forth herein.

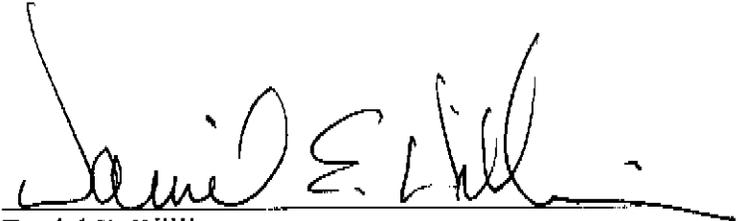
2. In both the Litigation Plan of August 23, 2001 (Docket No. 53) and the Litigation Plan of May 3, 2003 (Docket No. 165), the parties stated clearly that they intended to abide by the seven hour limitation set forth at Rule 30 and D.Id.L.Civ.R. 30.1. (See p. 5, ¶ 10b of Docket 53 and p. 4, ¶ 5b of Docket No. 165.)

3. Notwithstanding the Litigation Plans, Defendants have issued a Notice of Deposition for Kim Smith setting her deposition for May 7, 2004. Defendant's Notice is attached as Exhibit A. Defendant has already deposed Kim Smith on February 18, 2002, from 9:40 a.m. to 5:00 p.m. and on February 18, 2002, from 9:10 a.m. until 12:50 p.m. Excluding lunch breaks and other breaks, Defendant's deposed Kim Smith for at least eight hours.

4. On Tuesday, April 20, 2004, I met with Defendant's counsel Kim Dockstader and Gregory Tollefson face-to-face. I raised this issue and stated that we objected to Kim Smith's deposition, because of Defendant had already exceeded the seven hour limitation. I invited Defendants to suggest a reasonable, short time frame of perhaps an hour to continue Ms. Smith's deposition and we would consider it. Rather than accept this offer, Defendant has continued to insist on the scheduled May 7, 2004, 9:00 a.m. deposition and have agreed to no limitation.

5. Plaintiff Kim Smith indicates that she is working in a new job and her new employer would find it very difficult for her to appear on May 7, 2004, at the scheduled time. Defendant has refused to discuss a different time.

6. Plaintiffs therefore urge the Court to issue a Protective Order in the form submitted by Plaintiffs to bar Defendants from taking this deposition.


Daniel E. Williams

Subscribed and sworn to before me this 3rd day of May, 2004.




Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 4/7/06

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of May, 2004, 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


Daniel E. Williams

Kim J Dockstader, ISB No. 4207
Gregory C. Tollefson, ISB No. 5643
STOEL RIVES LLP
101 South Capitol Boulevard, Suite 1900
Boise, ID 83702-5958
Telephone: (208) 389-9000
Fax Number: (208) 389-9040
kjdockstader@stoel.com
gctollefson@stoel.com

Attorneys for Defendant Micron Electronics, Inc.

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

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

Plaintiffs,

v.

MICRON ELECTRONICS, INC., a
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**DEFENDANT MICRON ELECTRONICS,
INC.'S NOTICE OF DEPOSITION
DUCES TECUM OF PLAINTIFFS AND
SELECTED CLASS MEMBERS**

TO: **PLAINTIFFS AND SELECTED CLASS MEMBERS**
c/o Their Counsel of Record William H. Thomas and Daniel Williams,
Huntley Park LLP

PLEASE TAKE NOTICE that Defendant Micron Electronics, Inc., pursuant to Rules 26
and 30 of the Federal Rules of Civil Procedure, will take the following depositions at set forth
below. Each deposition will continue from time to time thereafter until completed. The location

**DEFENDANT MICRON ELECTRONICS, INC.'S NOTICE OF DEPOSITION
DUCES TECUM OF PLAINTIFFS AND SELECTED CLASS MEMBERS - 1**

Boise-169731.1 0026493-00046

EXHIBIT *A*

of each deposition is also stated below. The deposition will be taken before a court reporter who is authorized to administer an oath. The deposition will be recorded both by audio and stenographic means. Micron Electronics, Inc. hereby reserves the right to record the deposition by videotape.

The deponent is required to produce the following documents, records or other materials at said deposition: **All items and documents identified on Exhibit A attached hereto.**

Deponent	Date	Time	Location
Carlisle Burnette	April 13, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Eric Fillmore	April 13, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Rory Kip DeRouen	April 13, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Kevin Henderson	April 14, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Dale Hope	April 14, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Jared Hodges	April 14, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Michael Schoonveld	April 16, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Stefanie Bistline	April 16, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Cheryl Stumph	April 19, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Kurt Swanson	April 19, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702

**DEFENDANT MICRON ELECTRONICS, INC.'S NOTICE OF DEPOSITION
DUCENS TECUM OF PLAINTIFFS AND SELECTED CLASS MEMBERS - 2**

Deponent	Date	Time	Location
Michael Angus	April 20, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Kevin Aubert	April 28, 2004	9:00 a.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Dennis Christensen	April 28, 2004	1:00 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Ricky Ferrara	April 28, 2004	3:30 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Julie Gardner	April 29, 2004	9:00 a.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Matt Hagman	April 29, 2004	1:00 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
David Kestner	April 29, 2004	3:30 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Kurt Kluessendorf	April 30, 2004	9:00 a.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Eric Little	April 30, 2004	1:00 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Marvin Masteller	April 30, 2004	3:30 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Rose Thies	May 3, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
David Thom	May 3, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Mark McKenzie	May 3, 2004	9:00 a.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Ginger North	May 3, 2004	1:00 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402

**DEFENDANT MICRON ELECTRONICS, INC.'S NOTICE OF DEPOSITION
DUCES TECUM OF PLAINTIFFS AND SELECTED CLASS MEMBERS - 3**

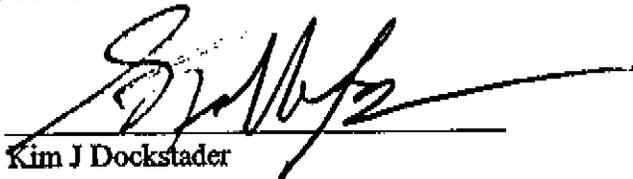
Deponent	Date	Time	Location
Thomas Robertson	May 3, 2004	3:30 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Christopher Wing	May 4, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Camille Woodworth	May 4, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Michelle Saari	May 4, 2004	9:00 a.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Matthew Severson	May 4, 2004	1:00 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Patrick Worthington	May 3, 2004	3:30 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Jeff Parrish	May 5, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Marilyn Craig	May 5, 2004	9:00 a.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Jacqueline Hladun	May 5, 2004	2:00 p.m.	Halleland Lewis 220 South Sixth Street, Suite 600 Minneapolis, Minnesota 55402
Michael Hinckley	May 6, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Timothy Kaufmann	May 6, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Kimberley Smith	May 7, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
William Brinckerhoff	May 7, 2004	9:00 a.m.	Bismark, North Dakota <i>Telephonic Deposition</i> <i>(Deponent location to be determined)</i>

**DEFENDANT MICRON ELECTRONICS, INC.'S NOTICE OF DEPOSITION
DUCES TECUM OF PLAINTIFFS AND SELECTED CLASS MEMBERS - 4**

Deponent	Date	Time	Location
Robert McCarter	May 7, 2004	2:00 p.m.	Cockeysville, Maryland <i>Telephonic Deposition</i> <i>(Deponent location to be determined)</i>
Carly Seader	May 13, 2004	9:00 a.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Tim Hedding	May 13, 2004	2:00 p.m.	Stoel Rives, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702
Jeff Clevenger	May 14, 2004	9:00 a.m.	Grand Rapids, Michigan (Location to be determined)

DATED this 8th day of April, 2004.

STOEL RIVES LLP

By: 

Kim J Dockstader

Attorneys for Defendant
Micron Electronics, Inc.

DEFENDANT MICRON ELECTRONICS, INC.'S NOTICE OF DEPOSITION
DUCES TECUM OF PLAINTIFFS AND SELECTED CLASS MEMBERS - 5

EXHIBIT A

DEFINITIONS

The following terms have the following meanings when used herein:

1. "Document" includes, but is not limited to, every form of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, whether recorded by handwriting, printing, photostatic or photographic means, magnetic impulse, tape, computer disk, CD ROM, optical disk, or any other form of data storage, data compilation, or mechanical or electronic recording, and all other tangible things which come within the meaning of "writing" contained in Rule 1001 of the Federal Rules of Evidence, or within the meaning of "document" or "tangible thing" contained in Rule 34 of the Federal Rules of Civil Procedure. Every draft or non-identical copy of a document is a separate document as that term is used herein, such as, but not limited to, copies containing notations, insertions, corrections, marginal notes or any other variations.
2. "Electronic Data" means the original and any non-identical copies of any computer program, software, database, file, e-mail, source code or operating system, including ASCII files, word processing documents, spreadsheets, charts, graphs and emails, whether active, deleted or fragmented.
3. "Electronic Media" includes any magnetic or other storage device used to record, store, or maintain Electronic Data, including, but not limited to, computer hard disks, floppy disks, CD ROM, magnetic tapes, microfiche, punched cards and computer chips.
4. "Electronic Memory" means any disk, minidisk, floppy disk, hard drive, disk drive, CD ROM, optical disk, memory card, personal computer, network, magnetic tape, back up, or any other means of storing, recording or retaining information generated or input to or on a computer.
5. "Micron" means Micron Electronics, Inc., a Delaware corporation, and its subsidiaries and divisions.
6. If any responsive documents are withheld from production based on privilege or work product or a legitimate common law or statutory confidentiality right, prepare and include with your production a log identifying each withheld document and specifying (1) the author(s) of the documents, (2) the identity of all persons designated as addressees or otherwise receiving copies, (3) the date of the document, (4) the subject matter of the document, (5) the type of document (e.g., memorandum, letter, pamphlet, report, etc.), and (6) the basis for withholding the document.

DOCUMENTS TO BE PRODUCED

You are required to produce the following documents:

1. All documents created or obtained by you which mention this lawsuit, including, but not limited to, documents on Electronic Media or in Electronic Memory. This request does not seek production of any privileged communications with your attorney or your attorney's law firm which relate to this lawsuit, but does seek any documents between you and others involved in this lawsuit.
2. All documents created or obtained by you which evidence, refer or relate to communications with other people about this lawsuit, including other persons involved in this lawsuit and including, but not limited to, documents on Electronic Media or in Electronic Memory. Again, this request does not seek production of any privileged communications with your attorney or your attorney's law firm which relate to this lawsuit.

3. All documents created or obtained by you which evidence, refer or relate to your work attendance and/or hours worked for the last three years of your period of employment with Micron, including, but not limited to, documents on Electronic Media or in Electronic Memory.
4. All of your payroll and/or compensation records from Micron for the last three years of your period of employment with Micron or since June 1, 1998, whichever is longer, including, but not limited to, documents on Electronic Media or in Electronic Memory.
5. All diaries, journals, personal record notebooks, personal notes, emails, electronic journals, on-line journals, web sites, or any other written or electronic life or personal history documentation kept for the last three years of your period of employment with Micron or since June 1, 1998, whichever is longer. This request includes, but is not limited to, documents on Electronic Media or in Electronic Memory.
6. Any other records or documents, including, but not limited to, documents on Electronic Media or in Electronic Memory which would support the allegation in the complaint that Defendant "unlawfully induced" you "to work off the clock."
7. Any other records or documents, including, but not limited to, documents on Electronic Media or in Electronic Memory which would support the allegation in the complaint that Defendant "implicitly and explicitly allowed managers to alter timecards."
8. Any other records or documents, including, but not limited to, documents on Electronic Media or in Electronic Memory which would support the allegations in the complaint that Defendant "failed to calculate overtime pay correctly."
9. Any other records or documents, including, but not limited to, documents on Electronic Media or in Electronic Memory which would support the allegations in the complaint that Defendant "discouraged employees from keeping accurate time records."
10. Any other records or documents, including, but not limited to, documents on Electronic Media or in Electronic Memory which would support the allegations in the complaint that Defendant "suppressed wage claims."
11. All of your curriculum vitae or resumes, whether in draft or final form, from the past five years, including documents on Electronic Media or in Electronic Memory.
12. All documents, including, but not limited to, documents on Electronic Media or in Electronic Memory, which evidence, refer or relate to other lawsuits or administrative proceedings in which you have been involved as a party, whether as a plaintiff, defendant, complainant, claimant, respondent or otherwise.
13. All documents responsive to Micron Electronics, Inc.'s Interrogatories or Requests for Production which have not been previously produced.
14. All state and federal income tax returns for each and every year you were employed by Micron.
15. All W-2s for each and every year you were employed by Micron.

CERTIFICATE OF SERVICE

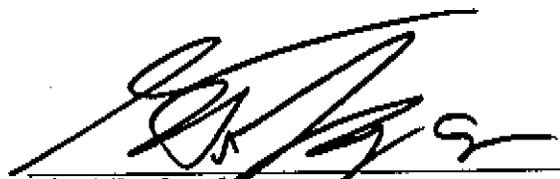
I HEREBY CERTIFY that on this 8th day of April, 2004, I caused to be served a true copy of the foregoing **DEFENDANT MICRON ELECTRONICS, INC.'S NOTICE OF DEPOSITION DUCES TECUM OF PLAINTIFFS AND SELECTED CLASS MEMBERS** by the method indicated below, and addressed to each of the following:

William H. Thomas
Daniel E. Williams
Christopher F. Huntley
HUNTLEY PARK LLP
250 South 5th Street
P.O. Box 2188
Boise, Idaho 83701-2188

U.S. Mail
 Hand Delivery
 Overnight Delivery
 Facsimile

Diane Cromwell
Tucker & Associates
605 West Fort Street
Boise, Idaho 83701

By Hand Delivery
 By Facsimile
 By U.S. Mail
 By Overnight Delivery



Kim J Dockstader