

STATE OF IDAHO)
)ss.
County of Ada)

I, JASON A. SHAW, being first duly sworn on oath, depose and say:

1. I am a 1999 graduate of Syracuse University and am currently a legal assistant at the firm of Huntley, Park, Thomas, Burkett, Olsen & Williams LLP.

2. Part of my duties on behalf of the Plaintiffs has been to verify that their overtime pay based on commissions was calculated correctly. I have reviewed the various documents produced by MEI regarding its calculations. Some of these documents are attached to the Affidavit of Daniel E. Williams re Reply Brief.

3. I performed overtime-on-commission calculations using 29 CFR 778.120, Example (ii).

4. These calculations were done using commissions paid to Kim Smith for the months of February, March, and April 2001.

5. The documents produced by the Defendant that I used provided information on actual overtime-on-commissions paid to Kim Smith (M004802), overtime worked by week (M003099), and monthly commission statements (M000499, M000516, and M000534).

6. As the fiscal month is not the same as the calendar month, the calculations were performed taking into consideration various possible combinations of four and five week months.

7. Being that February is a 28-day month, and given that March was a 5-week fiscal month (M004802), February 2001 was determined to be a 4-week month.

8. For the fiscal month of February 2001, Plaintiff Kim Smith was paid overtime-on-commission for the four-week month as follows: \$37 for the first week, \$14 for the second week,

\$0 for the third week, and \$33 for the fourth week.

9. Kim Smith worked overtime hours in the amounts of 6.75 for the first week, 14.25 for the second week, 0 for the third week, and 6 hours for the fourth week of fiscal February 2001.

10. Using the overtime hours from paragraph H and Smith's February 2001 commission in the 29 CFR 778.120 formula, Smith should have been paid \$36.72 for the first week, \$66.80 for the second week, \$0 for the third week, and \$33.17 for the fourth week, totaling \$136.69.

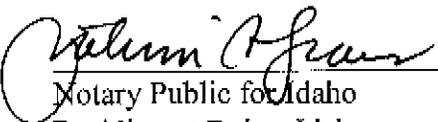
11. Kim Smith was actually paid \$83 in overtime-on-commission, which was \$53.69 short of the amount she should have been paid for the month of fiscal February 2001.

12. I have discovered other deficiencies in overtime-on-commission calculations, including Plaintiffs Mike Moser and Jaramc Ell. Similar documents and information was used to perform the calculations for these individuals.



Jason A. Shaw

Subscribed and sworn to before me this 6th day of September, 2002.



Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 6-21-08

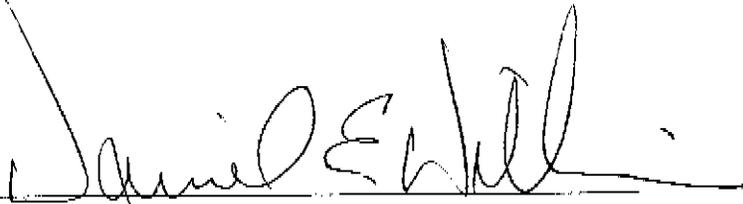


CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of September, 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
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Via Hand Delivery
 Via Facsimile 389-9040
 Via U. S. Mail



Daniel E. Williams