

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

---

**DEANA FRIDAY**, Individually and On Behalf of All Others  
Similarly Situated,

Plaintiff,

v.

**CLASS ACTION COMPLAINT**  
**JURY DEMAND**

**THE REMI GROUP, LLC, REMI CORPORATION,  
REMI HOLDINGS, LLC, DANIEL SCHUSTER,  
BRENT HOWISON, ROBERT FLEISCHACKER,  
and BRIAN LANDON,**

Defendants.

---

**COMPLAINT**

Plaintiff, **DEANA FRIDAY**, individually and on behalf of all others similarly situated, by and through her attorneys, CRUMLEY ROBERTS and JTB LAW GROUP, L.L.C., as and for her Complaint, alleges of her own knowledge and conduct and upon information and belief as to all other matters, as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action, individually and on behalf of all others similarly situated, to recover monetary damages, liquidated damages, interest and costs, including reasonable attorneys' fees as a result of **THE REMI GROUP, LLC, REMI CORPORATION, REMI HOLDINGS, LLC, DANIEL SCHUSTER, BRENT HOWISON, ROBERT FLEISCHACKER, and BRIAN LANDON** (collectively "Defendants") willful violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §201 et seq. and the North Carolina Wage and Hour Act ("NCWHA"), N.C.Gen.Stat. §§ 95-25.1 et seq.
2. Plaintiff brings this action, individually and on behalf of all others similarly situated, under the FLSA, 29 U.S.C. § 201 *et seq.* in connection with Defendants' violation of their

statutory obligations to pay Plaintiff overtime compensation at a rate of time and a half (1.5) of their regular rate of pay for work in excess of forty (40) hours per week pursuant to 29 U.S.C. § 207(a).

3. Plaintiff also brings this action, individually and on behalf of all putative class members under the NCWHA and relating regulations. Specifically, Plaintiff asserts that he is entitled to overtime compensation for all work beyond forty (40) hours per week, at a rate of time and a half (1.5) of their regular rate of pay.

4. Upon information and belief, for at least three (3) years prior to the filing of this Complaint, Defendants have willfully and intentionally committed widespread violations of the above-described federal and state wage and hour statutes and corresponding regulations, in the manner described herein.

#### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, because this action involves the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, a federal statute. As to claims under State law, this Court has supplemental subject matter jurisdiction pursuant to 28 U.S.C. § 1367.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391 (b) and (c) because a substantial part of the acts or omissions giving rise to this action occurred in this District and Defendants are subject to personal jurisdiction in this District.

### **THE PARTIES**

8. Defendant, **THE REMI GROUP, LLC**, is a domestic business corporation organized and existing under the laws of the State of North Carolina and maintain their headquarters at 11325 N COMMUNITY HOUSE ROAD, STE 300, CHARLOTTE NC 28277-0524.
9. Defendant, **REMI CORPORATION** is a foreign business corporation organized and existing under the laws of the State of Delaware and maintain their headquarters at 11325 N COMMUNITY HOUSE ROAD, STE 300, CHARLOTTE NC 28277-0524.
10. Defendant, **REMI HOLDINGS, LLC** is a foreign business corporation organized and existing under the laws of the State of Delaware and maintain their headquarters at 11325 N COMMUNITY HOUSE ROAD, STE 300, CHARLOTTE NC 28277-0524.
11. Defendant, **DANIEL SCHUSTER** is an owner and a principal member of **THE REMI GROUP, LLC, REMI CORPORATION, and REMI HOLDINGS, LLC.**
12. Defendant, **BRENT HOWISON** is an owner and a principal member of **THE REMI GROUP, LLC, REMI CORPORATION, and REMI HOLDINGS, LLC.**
13. Defendant, **ROBERT FLEISCHACKER** is an owner and a principal member of **THE REMI GROUP, LLC, REMI CORPORATION, and REMI HOLDINGS, LLC.**
14. Defendant, **BRIAN LANDON** is an owner and a principal member of **THE REMI GROUP, LLC, REMI CORPORATION, and REMI HOLDINGS, LLC.**
15. At all relevant times herein, Plaintiff was and is a resident of this district and the State of North Carolina.
16. Plaintiff was formerly employed by Defendants as an hourly paid Customer Service Agent during the applicable statutory period.

## **FACTUAL ALLEGATIONS**

17. Plaintiff repeats and realleges all preceding paragraphs of the Complaint, as if fully set forth herein.

18. The primary job responsibility of Plaintiff and other similarly situated Customer Service Agents employed by Defendants during the applicable statutory period, was to provide customer assistance and to handle and direct calls.

19. **THE REMI GROUP, LLC** operates and controls an enterprise engaged in commerce, with an annual gross volume of business exceeding \$500,000.00.

20. At all times relevant hereto, **THE REMI GROUP, LLC** has been an "enterprise engaged in commerce or in the production of goods for commerce" as defined under 29 U.S.C. §203(s) (1).

21. **REMI CORPORATION** operates and controls an enterprise engaged in commerce, with an annual gross volume of business exceeding \$500,000.00.

22. At all times relevant hereto, **REMI CORPORATION** has been an "enterprise engaged in commerce or in the production of goods for commerce" as defined under 29 U.S.C. §203(s) (1).

23. **REMI HOLDINGS, LLC** operates and controls an enterprise engaged in commerce, with an annual gross volume of business exceeding \$500,000.00.

24. At all times relevant hereto, **REMI HOLDINGS, LLC** has been an "enterprise engaged in commerce or in the production of goods for commerce" as defined under 29 U.S.C. §203(s).

25. At all times material and relevant herein, Defendants were jointly the "employer" of Plaintiff and similarly situated employees within the meaning of 29 U.S.C §203(d).

26. At all times material and relevant herein, Defendants either directly or indirectly hired

Plaintiff and similarly situated employees; controlled their work schedules and conditions of employment; determined the rate and method of the payment of wages.

27. At all times material and relevant herein, Defendants controlled the work schedule, duties, protocols, applications, assignments and conditions of employment of Plaintiff and similarly situated employees.

28. At all relevant times herein, Plaintiff and similarly situated Customer Service Agents were classified as non-exempt from overtime by Defendants.

29. Customer Service Agents were paid an hourly rate of compensation.

30. Customer Service Agents were forced to work hours for which they were not fully compensated, commonly referred to as “off the clock” work.

31. Plaintiff and similarly situated Customer Service Agents were regularly forced to work off the clock without compensation in violation of the FLSA and NCWHA.

32. Upon information and belief, during the applicable statutory period, Defendants employed at least Forty (40) Customer Service Agents.

33. At all relevant times herein, Defendants maintained control, oversight, and direction over the Plaintiff and the putative members of the proposed class, including the promulgation and enforcement of policies affecting the payment of wages for overtime compensation.

34. Upon information and belief, Defendants never posted a notice explaining the minimum hourly wage and overtime pay rights provided by FLSA in any area of its business facility where Plaintiff and similarly situated employees were employed, in violation of 29 C.F.R. §516.4.

35. Plaintiff and similarly situated employees were required by Defendants and regularly worked over forty (40) hours per week.

36. Upon information and belief, at all times material and relevant herein, Defendants failed to keep full and accurate records of Plaintiff’s and similarly situated employees’ hours and

wages, in violation of 29 C.F.R. §§ 516.5, 516.6 and N.C.Gen.Stat. §§ 95-25.13.

37. At all relevant times, Plaintiff and similarly situated employees worked in the manner described above and Defendants encouraged, instructed, and required them to work in this manner.

38. Defendants' wrongful acts and/or omissions/commissions, as alleged herein, were not made in good faith or in conformity with and in reliance on any written administration, regulation, order, ruling, approval, or interpretation by the U.S. Department of Labor and/or the North Carolina Department of Labor, or any administrative practice or enforcement policy of such departments.

39. Defendants' widespread violations of the above-described federal and state wage and hour statutes and regulations were willful, arbitrary, unreasonable and/or in bad faith.

#### **CLASS ACTION ALLEGATIONS**

40. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.

41. Plaintiff brings this action individually and on behalf of all other similarly situated employees, who were/are affected by Defendants' willful and intentional violation of the FLSA and NCWHA as described in this Complaint.

42. Plaintiff brings this collective and class action to recover monetary damages owed by Defendants to Plaintiff and members of the putative Collective and Class for all unpaid overtime compensation for hours in a work week in excess of forty (40) pursuant to the FLSA and NCWHA.

43. Plaintiff brings this claim for relief for violation of the FLSA as a collective action pursuant to Section 216(b) of the FLSA, 29 U.S.C. § 216(b) and for relief for violation of the NCWHA as a class action pursuant to Rule 23.

44. The Collective is defined as follows: **All Customer Service Agents of Defendants from May 2011 through present who were not paid for all hours worked in at least one workweek which exceeded forty (40) hours of work.**

45. The Rule 23 Class is defined as follows: **All Customer Service Agents of Defendants from May 2011 through present who were not paid for all hours worked in at least one workweek which exceeded forty (40) hours of work.**

46. This action is properly brought as a collective action pursuant to the collective action procedures of the FLSA and as a class action pursuant to the class action procedures of Rule 23 of the Federal Rules of Civil Procedure.

47. The Class is so numerous that joinder of all members is impractical. While the exact number and identities of Class members are unknown at this time, and can only be ascertained through appropriate discovery, Plaintiff believes that at least Forty (40) putative class members have worked for Defendants during the applicable statutory period, without receiving appropriate overtime compensation and/or who were victims of Defendants common policies, as required by law.

48. This litigation is properly brought as a class action because of the existence of questions of fact and law common to the Class which predominates over any questions affecting only individual members, including: Whether Defendants are liable to Plaintiff and members of the putative Class and for violations of the applicable labor code; Whether Plaintiff members of the putative class worked more than 40 hours per week; Whether Defendants failed to pay Plaintiff and members of the putative Class overtime compensation for all hours in the work week in excess of forty (40); and Whether Defendants failed to pay Plaintiff and members of the putative class compensation for hours worked off the clock.

49. This litigation is properly brought as a class action because Plaintiff's claims are typical

of the claims of the members of the Class, inasmuch as all such claims arise from Defendants' standard policies and practices, as alleged herein. Like all Class members, Plaintiff was damaged by Defendants' system-wide policies and practices of failing to pay overtime compensation for all hours in a work week in excess of forty (40), in violation of the FLSA and NCWHA.

50. Plaintiff has no interests antagonistic to the interests of the other members of the Class. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel experienced in class action litigation. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class.

51. A class action is an appropriate and superior method for the fair and efficient adjudication of the present controversy given the following factors: Common questions of law and/or fact predominate over any individual questions which may arise, and, accordingly, there would accrue enormous savings to both the Court and the putative Class in litigating the common issues on a classwide basis instead of on a repetitive individual basis; Despite the size of individual Class members' claims, their aggregate volume, coupled with the economies of scale inherent in litigating similar claims on a common basis, will enable this case to be litigated as a Class action on a cost-effective basis, especially when compared with repetitive individual litigation; and No unusual difficulties are likely to be encountered in the management of this class action in that all questions of law and/or fact to be litigated at the liability stage of this action are common to the Class.

52. Class certification is also fair and efficient because prosecution of separate actions by individual Class members would create a risk of differing adjudications with respect to such individual members of the Class, which as a practical matter may be dispositive of the interests of other members no parties to the adjudication, or substantially impair or impede their ability to protect their interests.



53. Plaintiffs anticipate that there will be no difficulty in the management of this litigation.

This litigation presents FLSA and NCWhA claims of a type that have often been prosecuted on a classwide basis, and the manner of identifying the Class and providing any monetary relief to it can easily be effectuated from a review of Defendant's records.

54. Plaintiff and the proposed class members demand a trial by jury.

### **FIRST CLAIM FOR RELIEF**

#### **(Individual Claims for Violation of FLSA)**

55. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.

56. Defendants required Plaintiff to work over forty (40) hours in certain workweeks.

57. Defendant failed to pay Plaintiff for all hours worked.

58. Defendants failed to pay Plaintiff overtime compensation for hours in a work week in excess of forty (40).

59. Defendants' failure to pay Plaintiff overtime compensation for hours in a work week in excess of forty (40), violates the FLSA.

60. Defendants' uniform conduct and practices, as described above, was/is willful, intentional, unreasonable, arbitrary and in bad faith.

61. Because Defendants willfully violated the FLSA, as aforesaid, a three (3) year statute of limitations shall apply to such violation, pursuant to 29 U.S.C. § 255.

62. As a result of Defendants' uniform policy and practice described above, Plaintiff were illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and is entitled to recovery total unpaid amounts, liquidated damages, pre-judgment interest, costs, reasonable attorneys' fees and other compensation pursuant to 29 U.S.C § 216(b).

## **SECOND CLAIM FOR RELIEF**

### **(Individual Claims for Violation of NCWHA)**

63. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.
64. Defendants required Plaintiff to work hours in a work week over forty (40) and required Plaintiff to work without proper compensation.
65. Defendant failed to pay Plaintiff for all hours worked.
66. Defendants' failure to pay Plaintiff overtime compensation for hours in a work week in excess of forty (40), violates the NCWHA.
67. A two (2) year statute of limitations applies to each such NCWHA violation.
68. Defendants' conduct and practice, as described above, was/is willful, intentional, unreasonable, arbitrary and in bad faith.
69. As a result of the foregoing, Plaintiff was illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and is entitled to recovery of total unpaid amounts, liquidated damages, pre-judgment interest, costs, reasonable attorney's fees and other compensation.

## **THIRD CLAIM FOR RELIEF**

### **(Collective Action Claim for Violation of FLSA)**

70. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.
71. Defendants required Plaintiff and similarly situated Agents employed by Defendants to work hours in a work week in excess of forty (40) and required Plaintiff and similarly situated Agents to work without proper compensation.
72. Defendants failed to pay Plaintiff and similarly situated Agents overtime compensation

for hours in a work week in excess of forty (40).

73. Defendants' failure to pay Plaintiff and similarly situated Agents overtime compensation for hours in a work week in excess of forty (40), violates the FLSA.

74. Defendants' uniform policy and practice, as described above, was/is willful, intentional, unreasonable, arbitrary and in bad faith.

75. Because Defendants willfully violated the FLSA, as aforesaid, a three (3) year statute of limitations shall apply to such violation, pursuant to 29 U.S.C. § 255.

76. As a result of Defendants' foregoing violations, Plaintiff and similarly situated Agents were illegally deprived of regular and overtime compensation earned, in such amounts to be determined at trial, and are entitled to recovery of such total unpaid amounts, liquidated damages, pre-judgment interest, costs, reasonable attorney's fees and other compensation pursuant to 29 U.S.C § 216(b).

#### **FOURTH CLAIM FOR RELIEF**

##### **(Rule 23 Class Action Claim for Violation of NCWHA)**

77. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.

78. Defendants required Plaintiff and the Class members to work hours in a work week in excess of forty (40) and required Plaintiff and the Class members to work without proper compensation.

79. Defendants failed to pay Plaintiff and all the other Class members overtime compensation for hours in a work week in excess of forty (40).

80. Defendants' failure to pay Plaintiff and all the other Class members overtime compensation for hours in a work week in excess of forty (40), violates the NCWHA.

81. Defendants' uniform policy and practice, as described above, was/is willful, intentional,

unreasonable, arbitrary and in bad faith.

82. A two (2) year statute of limitations applies to each such violation.

83. As a result of Defendants' foregoing violations, Plaintiff and all the other Class members were illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and are entitled to recovery of such total unpaid amounts, liquidated damages, pre-judgment interest, costs, reasonable attorney's fees and other compensation.

#### **FIFTH CLAIM FOR RELIEF**

##### **(Individual Claim for Unjust Enrichment/Quantum Meruit)**

84. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.

85. Plaintiff conferred benefits on the Defendant and Defendant received such benefits conferred upon them by Plaintiff.

86. Defendants accepted and retained the benefits in circumstances that render such retention inequitable.

87. Defendants have thereby been unjustly enriched and Plaintiff has been damaged.

88. Plaintiff is entitled to damages equal to all unpaid wages due within three (3) years preceding the filing of this Complaint plus periods of equitable tolling, pursuant to North Carolina General Statute Section § 1-52.

89. Plaintiff is entitled to an award of pre-judgment and post-judgment interest at the applicable legal rate.

## **SIXTH CLAIM FOR RELIEF**

### **(Rule 23 Class Action Claim for Unjust Enrichment/Quantum Meruit)**

90. Plaintiff repeats and realleges all the preceding paragraphs of this Complaint, as if fully set forth herein.

91. Plaintiff and members of the Class conferred benefits on the Defendant and Defendant received such benefits conferred upon them by Plaintiff and members of the Class.

92. Defendants accepted and retained the benefits in circumstances that render such retention inequitable.

93. Defendants have thereby been unjustly enriched and Plaintiff and the members of the Class have been damaged.

94. Plaintiff and members of the Class are entitled to damages equal to all unpaid wages due within three (3) years preceding the filing of this Complaint plus periods of equitable tolling, pursuant to North Carolina General Statute Section § 1-52.

95. Plaintiff and the Class are entitled to an award of pre-judgment and post-judgment interest at the applicable legal rate.

### **Prayer for Relief**

**WHEREFORE**, Plaintiff prays for declaratory relief and damages as follows:

A. A declaratory judgment that Defendants' wage practices alleged herein violate the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, and attendant regulations at 29 C.F.R. §516 *et seq.*

B. A declaratory judgment that Defendants' wage practices alleged herein violate NCWHA and related regulations.

C. An order for injunctive relief ordering the Defendants to end all of the illegal wage practices alleged herein pursuant to FLSA, NCWHA, and related laws and regulations.

D. An order requiring Defendants to turn over to Plaintiffs, at their own expense, a detailed investigative accounting for the number of overtime-eligible hours actually worked by the Plaintiff and all putative collective and class members.

E. Judgment for damages for all unpaid compensation under the Fair Labor Standards Act, 29 U.S.C. §201, et seq., and attendant regulations at 29 C.F.R. §516 et seq.

F. Judgment for damages for all unpaid compensation under the NCWHA and the relating regulations.

G. Judgment for liquidated damages pursuant to the Fair Labor Standards Act, 29 U.S.C. §201, et seq., and attendant regulations at 29 C.F.R. §516 et seq., in an amount equal to all unpaid compensation owed to Plaintiff and members of the Class during the applicable statutory period.

H. Judgment for liquidated damages pursuant to the NCWHA § 95-25.1, et seq, § 95-25.22, and the relating regulations.

I. Judgment for any and all civil penalties to which Plaintiff and all other similarly situated employees may be entitled.

J. An order directing Defendants to pay Plaintiff and members of the putative Class prejudgment interest, reasonable attorney's fees and all costs connected with this action.

K. Incentive awards for the lead Plaintiff.

L. Leave to add additional plaintiffs by motion, the filing of written consents, or any other method approved by the court.

M. Equitably tolling for the Collective effective the date of the filing.

N. Such other and further relief as to this Court may deem necessary, just and proper.

Dated: July 24, 2014

Respectfully submitted,

**CRUMLEY ROBERTS**

By: /S/ BRIAN L. KINSLEY  
Brian L. Kinsley  
*BLKinsley@crumleyroberts.com*  
2400 Freeman Mill Road, Ste. 200  
Greensboro, NC 27406  
Phone: (336) 333-9899  
Fax: (336) 333-9894

-And-

**JTB LAW GROUP, L.L.C.**

Jason T. Brown (will seek *Pro Hac Vice or Permanent* admission)  
*jtb@jtblawgroup.com*  
155 2<sup>nd</sup> Street  
Suite 4  
Jersey City, NJ 07302  
Phone: (201) 630-0000  
Fax: (855) 582-5297

Gian M. Fanelli (will seek *Pro Hac Vice or Permanent* admission)  
*gianmfanelli@jtblawgroup.com*  
155 2<sup>nd</sup> Street  
Suite 4  
Jersey City, NJ 07302  
Phone: (201) 630-0000  
Fax: (855) 582-5297

*Attorneys for Plaintiff*