IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

KIRK WILHITE, 87 TULANE ROAD COLUMBUS, OHIO 43202	§	**Civil Action No.**
MATTHEW COLLINS 48 QUAIL VALLEY COURT WORTHINGTON, OHIO 43085	§	**JUDGE** **MAGISTRATE JUDGE**
RAYMOND CHENAULT 1551 EAST BLACK AVE COLUMBUS, OHIO 43211 AND	§	**COLLECTIVE ACTION COMPAINT PURSUANT TO 29 U.S.C. § 216(b) and O.R. C. § 4111.14(k)**
WILLIE SPINNER 1072 E 12 AVENUE COLUMBUS, OHIO 43211 ***Plaintiffs,*** **v.**	§	**JURY TRIAL DEMANDED**
TEAM LUBRICATION, INC. 921 ROBINWOOD AVE , UNIT C COLUMBUS OH 43213 ***Defendant.***	§	

No comes Kirk Wilhite ("Wilhite"), Matthew Collins ("Collins"), Raymond Chenault ("Chenault"), and Willie Spinner ("Spinner") (together "Plaintiffs") individually and on behalf of other members of the general public similarly situated for Collective Actions against Team Lubrication, Inc. ("Defendant" or "Team Lubrication") for their failure to pay employees overtime wages and wages for all hours worked. Plaintiffs seek all available relief under the Fair Labor Standards Act of 1938 ("FLSA"), 29 U.S.C. §§ 201, *et seq.*, Article II, Section 34A of the Ohio Constitution, the Ohio Minimum Fair Wage Standards Act, O.R.C. 4111 *et seq.*, and ("the Ohio

Wage Act"); and the Ohio Prompt Pay Act ("OPPA"), Ohio Rev. Code § 4113.15 (the Ohio Wage Act and the OPPA will be referred to collectively as "the Ohio Acts"). The wage claims under the FLSA are brought as a collective action pursuant to 29 U.S.C. § 216(b); and the wage claims pursuant to the Ohio Constitution and the Ohio Wage Acts are brought as a collective action under O.R.C. 4111.14(K)(2). The following allegations are based on personal knowledge as to Plaintiffs' own conduct and are made on information and belief as to the acts of others. Plaintiffs, individually and on behalf of others similarly situated, hereby state as follows:

I. THE PARTIES

1. Kirk Wilhite is a former employee of Defendant and an individual residing at 87 Tulane Road, Columbus, Ohio 43202.

2. Mathew Collins is a former employee of Defendant and an individual residing at 48 Quail Valley Court, Worthington, Ohio 43085.

3. Raymond Chenault is a current employee of Defendant and an individual residing at 1551 East Black Avenue, Columbus, Ohio 43211.

4. Willie Spinner is a former employee of Defendant and an individual residing at 1072 East 12th Avenue, Columbus, Ohio 43211.

5. Team Lubrication (Defendant) is a corporation for profit registered to do business in Ohio.

6. Defendant's registered agent is James E Deitz (Deitz) located at 921 Robinwood Avenue, Unit C, Columbus, Ohio 43213.

7. Team Lubrication is owned by Deitz.

8. Team Lubrication does business as Jiffy Lube and is a franchise of Jiffy Lube.

9. Defendant operates seven different locations doing business as Jiffy Lube:

   a. 3550 N HIGH ST, COLUMBUS, OH 43214-4041,

b. 3191 E MAIN ST, COLUMBUS, OH 43213-2736,

c. 515 GEORGESVILLE RD, COLUMBUS, OH 43228-2420,

d. 1800 E DUBLIN GRANVILLE RD, COLUMBUS, OH 43229-3533,

e. 2136 MORSE RD, COLUMBUS, OH 43229-6665,

f. 2730 BETHEL RD, COLUMBUS, OH 43220-2217, and

g. 535 E LIVINGSTON AVE, COLUMBUS, OH 43215-5545.

II. JURISDICTION & VENUE

10. This Court has subject matter jurisdiction over the FLSA claims pursuant to 28 U.S.C. § 1331 as this is an action arising under 29 U.S.C. §§ 201 et seq.

11. This Court has supplemental jurisdiction over the additional state law claims pursuant to 28 U.S.C. § 1367.

12. This Court has personal jurisdiction over Defendant because the cause of action arose within this District because of Defendant's conduct within this District.

13. Venue is proper in the Southern District of Ohio because the cause of action arose within this District because of Defendant's conduct within this District.

14. Venue is therefore proper in this District pursuant to 28 U.S.C. § 1391.

III. FACTS

A. General Facts

15. Team Lubrication has been part of the Jiffy Lube system for 23 years and has serviced over 2.5 million vehicles in the Columbus area.

16. Defendant offers state of the art automotive services that meet or exceed customer expectations that include the Jiffy Lube Signature Service® Oil Change.

17. The Jiffy Lube Signature Service® Oil Change includes free fluid top offs (up to 2 quarts) for the next 3 months or 3,000 miles whichever comes first.

18. Defendant advertises on its website that their technicians are "trained through an ASE certified training program." [1]

19. Defendant pays Plaintiffs an hourly rate but failed to compensate them for all hours they worked each week. This failure to pay for all hours worked not only constitutes an underpayment of wages; it creates a miscalculation of Plaintiffs regular rates of pay for the purpose of overtime compensation.

20. In performing the operations hereinabove described, Team Lubrication was engaged in commerce within the meaning of §§ 203(b), 203(i), 203(j), 206(a), and 207(a) of the FLSA.

B. Unpaid Training Time

21. On Plaintiffs' first day of work, Defendant requires Plaintiffs to complete "Jiffy Lube University" ("JLU") prior to beginning any work at the shop. Plaintiffs were not compensated for this training course.

22. Defendant required two JLU modules be completed before a new employee's first day. The first module was for orientation and safety. The second was for positional training.

23. Jiffy Lube has been recognized for its JLU training program and outstanding commitment to employee training and development.[2]

24. JLU is a mandatory program for all service center employees.[3]

25. In 2011, Jiffy Lube won the first place ranking in the American Society for Training and Development's ("ASTD") BEST Awards.[4] The ASTD BEST Awards is the training industry's most rigorous and coveted recognition, acknowledging global organizations that demonstrate

[1] https://teamlubricationcolumbus.jiffylube.com/
[2] https://www.prnewswire.com/news-releases/jiffy-lube-recognized-for-superior-training-program-dedication-to-employee-development-138848354.html
[3] *Id.*
[4] *Id.*

enterprise-wide success through employee learning and development.[5] The award recognizes that Jiffy Lube excelled in creating an innovative and vibrant learning culture.[6]

26. According to Stu Crum, president of Jiffy Lube International, "2,000 locations remain committed to employing knowledgeable, highly-qualified technicians who provide excellent service to every customer. I am confident our efforts will continue to set us apart from the industry."[7]

27. JLU as a whole combines state-of-the-art computer-based instruction supervised on-the-job training and proficiency testing to ensure Jiffy Lube technicians are equipped with the skills to provide quality service to customers and their vehicles.[8]

28. Defendant compensates employees for their continuing JLU training after the first day of work, but not on the first day of work where they completed orientation training and positional training.

29. All training is tracked on the JLU learning management system.[9]

30. According to Documents received from Plaintiffs, Jiffy Lube International requires 100% of employees to complete the orientation and Safety training within the first 30 days. However, Defendant required employees to complete the training before they clocked in on the first day.

31. Every employee is required to complete JLU.

32. JLU increased retention and productivity of employees.

33. Defendant required the Plaintiffs and those similarly situated to take the JLU training, called "J-Team Training" without pay.

[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*

34. The J-Team Training objective is to provide students with the basic knowledge the customer experience, and how to keep employees and customers safe. Additionally, course provides knowledge, skills and practice so students can correctly perform the duties and tasks required for Jiffy Lube Technicians.

35. After the J-Team Training a new hire can describe Jiffy Lube's emphasis on customer service, list the basics of the duties of each J-Team member and explain how the service center works; explain the importance of safety, identify the Personal Protective Equipment, execute Jiffy Lube's call/response system, and summarize how to operate and service vehicles in the bay; and execute the assigned tasks in a specified safe manner within the required time.

36. The J-Team Training instruction method includes practical exercises, discussion, learner presentations, laboratory, and computer-based training. The general course topics include orientation; courtesy technician duties; lower bay technician duties; upper bay technician duties; and customer service advisor duties.

37. It is Defendant's companywide policy that new hires are not be paid unless they complete J-Team Training.

38. Plaintiffs completed the J-Team Training within Defendant's regular working hours: 8AM to 6PM on Monday through Friday, 8AM to 5PM on Saturday, and 10AM to 4PM on Sunday at one of the Defendant's locations.

39. According to the American Counsel of Education, the estimated time to complete J-Team Training is 48 hours.[10]

[10] *Id.*

C. Unpaid Pre and Post Shift Work

40. Defendant, on a companywide basis, requires Plaintiffs to perform unpaid work each morning, including, but not limited to, activities such as donning personal safety equipment and their required uniform.

41. Plaintiffs perform unpaid work after the official end of the paid workday, including but not limited to activities such as doffing personal safety equipment and their required uniform.

42. Plaintiffs perform unpaid work before the official start of the paid workday, including but not limited to activities such as donning personal safety equipment and their required uniform.

43. Plaintiffs clock in at or near the beginning of the workday and clock out at or near the end of their workday, but are paid based on the official start and stop time, which excludes donning and doffing time.

44. Plaintiffs donned and doffed their personal safety equipment and their required uniform at the beginning and end of each workday. Such donning and doffing is an integral and indispensable part of the principal activities for which Plaintiffs are employed and are not specifically excluded by Section 4(a)(1) of the Portal-to-Portal Act.

45. Plaintiffs donning and doffing is not *de minimis*.

46. Plaintiffs donned and doffed their personal safety equipment and their required uniform for approximately 15 minutes respectively for a total of 30 minutes each day.

47. Plaintiffs were not paid to don and doff their personal safety equipment and their required uniform because in the words of the General Manager, Michael Auker, "[Team Lubrication] is not a strip club. You are not paid to take your clothes off, or put them on."

D. Kirk Wilhite Factual Allegations

48. Defendant employed Plaintiff Kirk Wilhite ("Wilhite") from approximately October 22, 2018 to July 10, 2019.

49. Defendant employed Wilhite as a Technician.

50. Defendant paid Wilhite $8.55 an hour.

51. Wilhite's job duties included light vehicle maintenance such as oil changes, tire rotations, window cleaning, and upholstery cleaning. Additionally, Wilhite completed additional work such as JLU training and anything else Defendant asked him to complete.

52. On Wilhite's first day, before he clocked in for pay, Wilhite completed J-Team Training.

53. Wilhite did not complete any additional work until he completed J-Team Training.

54. Wilhite began the J-Team Training at approximately 9:15 AM.

55. Wilhite completed J-Team Training in five hours.

56. Wilhite performed unpaid work after the official end of the paid workday, including but not limited to activities such as doffing personal safety equipment and their required uniform.

57. Wilhite perform unpaid work before the official start of the paid workday, including but not limited to activities such as donning personal safety equipment and their required uniform.

58. Wilhite clocked in at or near the beginning of the workday and clocked out at or near the end of their workday, but was paid based on the official start and stop time, which excludes donning and doffing time.

59. Wilhite donned and doffed his personal safety equipment and required uniform at the beginning and end of each workday. Such donning and doffing is an integral and indispensable part of the principal activities for which Collins was employed and is not specifically excluded by Section 4(a)(1) of the Portal-to-Portal Act.

60. Wilhite's donning and doffing is not *de minimis*.

61. Wilhite donned and doffed his personal safety equipment and their required uniform for approximately 10 minutes each for a total of 20 minutes each day.

62. Wilhite learned that he should be compensated for J-Team Training.

63. On July 9, 2019, Wilhite asked Defendant why he was not compensated for J-Team Training. Defendant informed him that employees are not supposed to be compensated for J-Team Training.

64. On July 10, 2019, Defendant informed him that he was terminated for lying on his application. However, this reason is pretext.

65. Defendant lacked just cause to fire Wilhite.

66. Defendant terminated Wilhite's employment as retaliation for his request to be paid for J-Team Training.

E. Matthew Collins Factual Allegations

67. Defendant employed Plaintiff Matthew Collins ("Collins") on two separate occasions.

68. First, Collins worked from approximately September 27, 2017 to approximately November 2017.

69. Second, Collins worked from approximately March 28, 2019 to approximately June 1, 2019.

70. Defendant employed Collins as a Technician on both occasions.

71. Defendant paid Collins $8.55 an hour.

72. Collins' job duties included light vehicle maintenance such as oil changes, tire rotations, window cleaning, and upholstery cleaning. Additionally, Collins completed work such as JLU training and anything else Defendant asked him to complete.

73. On both Collins' first and second day, before he clocked in for pay, Collins completed J-Team Training.

74. Collins began the J-Team Training at approximately 9:15 AM.

75. Collins completed J-Team training in approximately eight hours.

76. Collins performed unpaid work after the official end of the paid workday, including but not limited to activities such as doffing safety equipment and related garments.

77. Collins perform unpaid work before the official start of the paid workday, including but not limited to activities such as donning safety equipment and related garments.

78. Collins clocked in at or near the beginning of the workday and clocked out at or near the end of their workday, but was paid based on the official start and stop time, which excludes donning and doffing time.

79. Collins donned and doffed his safety equipment and related garments at the begging and end of each workday. Such donning and doffing is an integral and indispensable part of the principal activities for which Collins was employed and is not specifically excluded by Section 4(a)(1) of the Portal-to-Portal Act.

80. Collins' donning and doffing is not *de minimis*.

81. Collins donned and doffed his personal safety equipment and their required uniform for approximately 15 minutes and 10 minutes respectively for a total of 25 minutes each day.

F. <u>Raymond Chenault Factual Allegations</u>

82. Defendant hired Plaintiff Raymond Chenault ("Chenault") on March 16, 2019 and he is still employed with Defendant.

83. Defendant employs Chenault as a Technician.

84. Defendant pays Chenault $8.55 an hour.

85. Chenault's job duties included light vehicle maintenance such as oil changes, tire rotations, window cleaning, and upholstery cleaning. Additionally, Chenault completed additional work such as JLU training and anything else Team Lubrication asked him to complete.

86. On Chenault's first day, before he clocked in for pay, Chenault completed J-Team Training.

87. Chenault began the J-Team Training at approximately 9:15 AM.

88. Team Lubrication did not allow Chenault to begin work until he completed J-Team Training.

89. Chenault completed J-Team training in approximately six hours.

90. Chenault performed unpaid work after the official end of the paid workday, including but not limited to activities such as doffing personal safety equipment and their required uniform.

91. Chenault perform unpaid work before the official start of the paid workday, including but not limited to activities such as donning personal safety equipment and their required uniform.

92. Chenault clocked in at or near the beginning of the workday and clocked out at or near the end of their workday, but was paid based on the official start and stop time, which excludes donning and doffing time.

93. Chenault donned and doffed his personal safety equipment and their required uniform at the begging and end of each workday. Such donning and doffing is an integral and indispensable part of the principal activities for which Collins was employed and is not specifically excluded by Section 4(a)(1) of the Portal-to-Portal Act.

94. Chenault's donning and doffing is not *de minimis*.

95. Chenault donned and doffed his personal safety equipment and their required uniform for approximately 8 minutes respectively for a total of 16 minutes each day.

G. Willie Spinner Factual Allegations

96. Defendant has employed Spinner as a Technician on three separate occasions: from June 2016 until approximately August 2016, from early November 2016 until approximately late November 2016, and from November 2018 to July 29, 2019.

97. Defendant payed Spinner $8.55 an hour as a Technician.

98. As a Technician Spinner's job duties included light vehicle maintenance such as oil changes, tire rotations, window cleaning, and upholstery cleaning. Additionally, Spinner completed additional work such as JLU training and anything else Team Lubrication asked him to complete.

99. On Spinner's first day, before he clocked in for pay, Spinner completed J-Team Training.

100. Spinner began the J-Team Training at approximately 9:15 AM.

101. Spinner completed J-Team Training in approximately three hours.

102. Spinner performed unpaid work after the official end of the paid workday, including but not limited to activities such as doffing personal safety equipment and their required uniform.

103. Spinner performed unpaid work before the official start of the paid workday, including but not limited to activities such as donning personal safety equipment and their required uniform.

104. Spinner clocked in at or near the beginning of the workday and clocked out at or near the end of their workday, but was paid based on the official start and stop time, which excludes donning and doffing time.

105. Spinner donned and doffed his personal safety equipment and their required uniform at the begging and end of each workday. Such donning and doffing is an integral and indispensable part of the principal activities for which Collins was employed and is not specifically excluded by Section 4(a)(1) of the Portal-to-Portal Act.

106. Spinner's donning and doffing is not *de minimis*.

107. Spinner donned and doffed his personal safety equipment and their required uniform for approximately 10 minutes respectively for a total of 20 minutes each day.

IV. CAUSES OF ACTION

COUNT ONE
FLSA COLLECTIVE ACTION OVERTIME VIOLATIONS

108. Plaintiffs, on behalf of themselves and all similarly situated employees of Defendant, realleges and incorporates all paragraphs 1 through 107 as if they were set forth fully herein.

109. The FLSA Collective is defined as:

> **ALL CURRENT AND FORMER HOURLY EMPLOYEES WHO WORKED FOR TEAM LUBRICATION AS A TECHNICIAN AT ANY TIME FROM JANUARY 1, 2017 THROUGH THE FINAL DISPOSITION OF THIS CASE, WHO (A) WERE NOT COMPENSATED FOR COMPLETING JIFFY LUBE UNIVERSITY TRAINING AND/OR (B) WERE REQUIRED TO DON AND DOFF THEIR PERSONAL SAFTEY EQUIPMENT AND THEIR REQUIRED UNIFORMS. ("FLSA Collective" or "FLSA Collective Members").**

110. Pursuant to 29 U.S.C. § 216(b), this collective claim is made on behalf of all those who are (or were) similarly situated to Plaintiffs.

111. At all relevant times, Defendant was and continues to be, an employer engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

112. During all times material to this complaint Plaintiffs and the FLSA Collective Members were not exempt from receiving overtime benefits under the FLSA because, *inter alia*, they were not "executive," "administrative," or "professional" employees, as those terms are defined under the FLSA. *See 29* C.F.R. §§ 541.0, *et seq.*

113. At all relevant times, Defendant employed, and/or continue to employ, Plaintiffs and each of the FLSA Collective Members within the meaning of the FLSA.

114. At all relevant times, Defendant had annual gross revenues in excess of $500,000.00.

115. Plaintiffs consent in writing to be a party to this action pursuant to 29 U.S.C. § 216(b). Plaintiffs' Notices of Consent are attached as **Exhibits A-D.**

116. At all relevant times, the Defendant had a policy and practice of refusing to pay any compensation for the time the Plaintiffs and the FLSA Collective Members spent the first day completing the JLU Training.

117. At all relevant times, the Defendant had a policy and practice of refusing to pay any compensation for the time the Plaintiffs and the FLSA Collective Members spent donning and doffing their protective safety equipment and their required uniforms.

118. At all relevant times, the Defendant had a policy and practice of refusing to pay Plaintiffs and the FLSA Collective at a rate not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a workweek, the Defendant violated and continue to violate, the FLSA.

119. As a result of the Defendants' failure to record, report, credit and/or compensate Plaintiff and the Collective Action Members, the Defendants have failed to make, keep and preserve records with respect to each of its employees sufficient to determine the wages, hours and other conditions and practices of employment in violation of the FLSA.

120. Defendant's failure to pay for all hours worked results from generally applicable policies and practices, and does not depend on the personal circumstances of the individual FLSA Collective Members.

121. Thus, Plaintiffs' experiences are typical of the experiences of the FLSA Collective Members.

122. The specific job titles or precise job requirements of the various FLSA Collective Members does not prevent collective treatment.

123. All of the FLSA Collective Members—regardless of their specific job titles, precise job requirements, rates of pay, or job locations—are entitled to be properly compensated for all hours worked.

124. Although the issues of damages may be individual in character, there is no detraction from the common nucleus of liability facts. Indeed, the FLSA Collective Members are non-exempt hourly workers entitled to pay for all hours worked in a week.

125. Absent a collective action, many members of the proposed FLSA collective likely will not obtain redress of their injuries and Defendant will retain the proceeds of its rampant violations.

126. Moreover, individual litigation would be unduly burdensome to the judicial system. Concentrating the litigation in one forum will promote judicial economy and parity among the claims of the individual members of the classes and provide for judicial consistency.

127. Accordingly, the FLSA collective of similarly situated plaintiffs should be certified as defined as in Paragraph 109 and notice should be promptly sent.

128. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning 29 U.S.C. § 255(a).

129. Due to the Defendant's FLSA violations, Plaintiffs, on behalf of themselves and the FLSA Collective Members, are entitled to recover from Defendant, their unpaid wages as well as overtime compensation, an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

COUNT TWO
OVERTIME VIOLATIONS OF THE OHIO WAGE ACT

130. Plaintiffs, on behalf of themselves and all similarly situated employees of Defendant, realleges and incorporates all paragraphs 1 through 109 as if they were set forth fully herein.

131. The Ohio Wage Act requires that covered employees be compensated for every hour worked in a workweek. *See* O.R.C. §§ 4111 *et seq.; see also* 29 U.S.C. § 206(b).

132. The Ohio Wage Act requires that employees receive overtime compensation (150%) "not less than one and one-half times" the employee's regular rate of pay for all hours worked over forty in one workweek, "in the manner and methods provided in and subject to the exemptions of section 7 and section 13 of the Fair Labor Standards Act of 1937." *See* O.R.C. § 4111.03(A); *see also* 29 U.S.C. § 207(a)(1).

133. During all times material to this complaint, Defendant was a covered employer required to comply with the Ohio Wage Act's mandates.

134. During all times material to this complaint Plaintiffs and the FLSA Collective Members were covered employees entitled to the Ohio Wage Act's protections.

135. During all times material to this complaint Plaintiffs and the FLSA Collective Members were not exempt from receiving overtime benefits under the Ohio Wage Act because, *inter alia*, they were not "executive," "administrative," or "professional" employees, as those terms are defined under the FLSA. *See* O.R.C. § 4111.03(A); *see also 29* C.F.R. §§ 541.0, *et seq.*

136. During all times material to this complaint Defendant violated the Ohio Wage Act with respect to Plaintiffs and the FLSA Collective Members by failing to compensate them at the rate of (150%) one and one-half times their regular rate of pay for all hours worked in excess of forty hours in one workweek.

137. In violating the Ohio Wage Act, Defendant acted willfully and with reckless disregard of clearly applicable Ohio Wage Act provisions.

COUNT THREE
COLLECTIVE VIOLATIONS OF THE FAIR LABOR STANDARDS ACT FOR FAILURE TO PAY THE FEDERAL MINIMUM WAGE

138. Plaintiffs, on behalf of themselves and all similarly situated employees of Defendant, realleges and incorporates all paragraphs 1 through 109 as if they were set forth fully herein.

139. At all times relevant, Defendant has been an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

140. At all times relevant to this Complaint, Plaintiffs and the FLSA Collective Members were Defendant's "employee" as defined by the FLSA, § 203(e)(1).

141. At all times relevant, Defendant was an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

142. The FLSA requires that employers compensate all non-exempt employees for every hour worked in a workweek. See 29 U.S.C. § 206(a)-(b).

143. At all times relevant to this Complaint, Plaintiffs and the FLSA Collective Members were not exempt from the minimum wage provisions of the FLSA.

144. At all times relevant to this Complaint Defendant had a policy and practice of knowingly permitting Plaintiffs and the FLSA Collective Members to work off the clock without compensation.

145. Defendant failed to pay Plaintiffs and the FLSA Collective Members wages for off-the-clock work.

146. When the Plaintiffs' and the FLSA Collective Members' total gross wages for a workweek are divided by the number of hours Plaintiffs and the FLSA Collective Members worked in a workweek which includes the work they performed off the clock; Plaintiffs and the FLSA Collective Members were paid less than the minimum wage mandated by the FLSA.

147. In violating the FLSA, Defendant acted willfully, without a good faith basis and with reckless disregard of applicable federal law.

148. Accordingly, FLSA Collective Members are entitled to wages for all hours worked pursuant to the FLSA in an amount equal to their regular rate of pay, plus damages, attorneys' fees and costs.

COUNT FOUR
COLLECTIVE VIOLATIONS OF ARTICLE II, SECTION 34A OF THE OHIO CONSTITUTION AND O.R.C. 4111 FOR FAILURE TO PAY THE OHIO MINIMUM WAGE

149. Plaintiffs, on behalf of themselves and all similarly situated employees of Defendant, realleges and incorporates all paragraphs 1 through 107 as if they were set forth fully herein.

150. The Ohio Collective is defined as:

> **ALL CURRENT AND FORMER HOURLY EMPLOYEES WHO WORKED FOR TEAM LUBRICATION AS A TECHNICIAN AT ANY TIME FROM JANUARY 1, 2017 THROUGH THE FINAL DISPOSITION OF THIS CASE, WHO (A) WERE NOT COMPENSATED FOR COMPLETING JIFFY LUBE UNIVERSITY TRAINING AND/OR (B) WERE REQUIRED TO DON AND DOFF PROTECTIVE SAFTEY EQUIPMENT AND THEIR UNIFORMS. ("Ohio Collective" or "Ohio Collective Members").**

151. Plaintiffs gave written consent to become a party plaintiff and that consent is filed with the court in which the action is brought. O.R.C. § 4.111.14(K)(2). Plaintiffs' Notices of Consent are attached as **Exhibits A-D.**

152. Section 34a of Article II of the Ohio Constitution requires that every employer shall pay each of the employer's employees at a wage rate of not less than the wage rate specified in the Section 34a.

153. At all times relevant to this Complaint in 2017 the Ohio minimum wage for non-exempt employees was $8.15 per hour.

154. At all times relevant to this Complaint in 2018, the Ohio minimum wage for non-exempt employees was $8.30 per hour.

155. At all times relevant to this Complaint in 2019, the Ohio minimum wage for non-exempt employees rose to $8.55 per hour.

156. At all times relevant to this Complaint, Plaintiffs and the Ohio Collective Members were not exempt from the minimum wage provisions of the Ohio Constitution or the Ohio Wage Act.

157. At all times relevant to this Complaint Defendant had a policy and practice of knowingly permitting Plaintiffs and the Ohio Collective Members to work off the clock without compensation.

158. Defendant failed to pay Plaintiffs and the Ohio Collective Members wages for off-the-clock work.

159. When the Plaintiffs' and the Ohio Collective Members' total gross wages for a workweek are divided by the number of hours Plaintiffs and the Ohio Collective Members worked in a workweek which includes the work they performed off the clock; Plaintiffs and the Ohio Collective Members were paid less than the minimum wage mandated by the FLSA.

160. In violating the Ohio Constitution or the Ohio Wage Act, Defendant acted willfully, without a good faith basis and with reckless disregard of applicable Ohio law.

161. Defendant's failure to pay Plaintiffs and the Ohio Collective Members the lawful Ohio minimum wage rates constitutes a violation of the Ohio Constitution and the Ohio Wage Act resulting in Plaintiffs and the Ohio Collective Members entitlement to treble damages, attorney's fees and costs and any other such relief the Court would grant.

COUNT FIVE
VIOLATIONS OF THE OHIO PROMPT PAY ACT FOR FAILURE TO PROMPTLY PAY WAGES

162. Plaintiffs, on behalf of themselves and all similarly situated employees of Defendant, realleges and incorporates all paragraphs 1 through 107 as if they were set forth fully herein.

163. The OPPA requires that Defendant pay the Plaintiffs and the Ohio Collective Members all wages, including unpaid overtime, on or before the first day of each month, for wages earned during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month, for wages earned by her during the last half of the preceding calendar month. See O.R.C. § 4113.15.

164. During relevant times, Defendants were each covered by the OPPA.

165. During relevant times, Plaintiffs and the Ohio Collective Members were not paid all wages, including overtime wages at one and one-half times their regular rate within thirty (30) days of performing the work. See O.R.C. §4113.15(B)

166. Plaintiffs' and the Ohio Collective Members' unpaid wages remain unpaid for more than thirty (30) days beyond their regularly scheduled payday.

167. Plaintiffs and the Ohio Collective Members have been harmed and continue to be harmed by Defendants' acts or omissions described herein.

168. In violating the OPPA, Defendants acted willfully, without a good faith basis and with reckless disregard of clearly applicable Ohio law.

COUNT SIX
VIOLATIONS OF THE FAIR LABOR STANDARDS ACT
FOR UNLAWFUL RETALIATION AS TO PLAINTIFF WHILHITE

169. Plaintiff Wilhite realleges and incorporates all paragraphs 1 through 107 as if they were set forth fully herein.

170. Section 215(a)(3) of the FLSA makes it unlawful for any employer to "to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee." 29 U.S.C. § 215(a)(3).

171. Wilhite learned that he should be compensated for J-Team Training.

172. On July 9, 2019, Wilhite informed Defendant that he should be compensated for J-Team Training. Defendant informed him that employees are not supposed to be compensated for J-Team Training. Wilhite asked for copies of his employment records.

173. On July 10, 2019, Wilhite arrived at work to perform his scheduled shift at 8:30 AM. When Wilhite arrived Defendant terminated Wilhite for lying on his application which Defendant found when they looked up his employment records. However, this reason is pretext.

174. Defendant lacked just cause to fire Wilhite.

175. Defendant terminated Wilhite's employment as retaliation for his request to be paid for J-Team Training, in violation of the FLSA.

COUNT SEVEN
VIOLATIONS OF ARTICLE II, SECTION 34A OF THE OHIO CONSTITUTION
UNLAWFUL RETALIATION AS TO PLAINTIFF WILHITE

176. Plaintiff Wilhite realleges and incorporates all paragraphs 1 through 107 as if they were set forth fully herein.

177. Article II, Section 34a requires that "no employer shall discharge or in any other manner discriminate or retaliate against an employee for exercising any right under this section or any law or regulation implementing its provisions or against any person for providing assistance to an employee or information regarding the same."

178. Wilhite learned that he should be compensated for J-Team Training.

179. On July 9, 2019, Wilhite informed Defendant that he should be compensated for J-Team Training. Defendant informed him that employees are not supposed to be compensated for J-Team Training. Wilhite asked for copies of his employment records.

180. On July 10, 2019, Wilhite arrived at work to perform his scheduled shift at 8:30 AM. When Wilhite arrived Defendant terminated Wilhite for lying on his application which Defendant found when they looked up his employment records. However, this reason is pretext.

181. Defendant lacked just cause to fire Wilhite.

182. Defendant terminated Wilhite's employment as retaliation for his request to be paid for J-Team Training, in violation of the Ohio Constitution.

RELIEF SOUGHT

1. Plaintiffs and the FLSA Collective respectfully pray for judgment against Defendant as follows:

a. For an Order recognizing this proceeding as a collective action pursuant to Section 216(b) of the FLSA, certifying the FLSA Collective as defined above and requiring Defendant to provide the names, addresses, e-mail addresses, telephone numbers, and social security numbers of all potential collective action members;

b. For an Order approving the form and content of a notice to be sent to all putative FLSA Collective Members advising them of the pendency of this litigation and of their rights with respect thereto;

c. For an Order awarding all Plaintiffs and FLSA Collective Members back wages that have been improperly withheld;

d. For an Order pursuant to Section 16(b) of the FLSA finding Defendant liable for unpaid back wages due to Plaintiffs (and those FLSA Collective Members who join in the suit), for liquidated damages, and for attorneys' fees and costs.

2. Plaintiffs and the Ohio Collective respectfully pray for judgment against Defendant as follows:

a. For an Order pursuant to the Ohio Wage Act awarding the Plaintiffs and the Ohio Collective Members unpaid overtime and other damages allowed by law;

b. For an Order pursuant to the Ohio Constitution and the Ohio Wage Act awarding the Plaintiffs and the Ohio Collective Members treble damages for the failure to pay the Ohio minimum wage and other damages allowed by law;

c. For an Order pursuant to the Ohio Prompt Pay Act for an award of two hundred dollars ($200) or a six percent (.6%) of their unpaid wages, which ever amount is higher;

d. For an Order awarding attorneys' fees and costs.

3. Plaintiff Wilhite respectfully prays for judgment against Defendant as follows

a. For an Order finding that Defendant terminated Wilhite's employment as retaliation for his request to be paid for J-Team Training, in violation of the FLSA and the Ohio Constitution.

b. For an order pursuant to the Ohio Common Law awarding the Plaintiffs all damages allowed by common-law;

c. For an Order awarding the costs and expenses of this action;

d. For an Order awarding attorneys' fees;

e. For an Order awarding pre-judgment and post-judgment interest at the highest rates allowed by law.

4. Plaintiffs, the FLSA Collective and the Ohio Collective respectfully pray for other relief against Defendant as follows:

a. For an Order compelling the accounting of the books and records of Defendant, at Defendant's own expense;

b. For an Order providing for injunctive relief prohibiting Defendant from engaging in future violations of the FLSA and Ohio law, and requiring Defendant to comply with such laws going forward; and

c. For an Order granting such other and further relief as may be necessary and appropriate.

Date: September 30, 2019

Respectfully submitted,

/s/Robert E. DeRose

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DEMAND FOR JURY TRIAL

Plaintiffs demands a trial by jury as to all claims so triable.

/s/ *Robert E. DeRose*
Robert E. DeRose