



### **JURISDICTION AND VENUE**

6. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. §216(b).
7. Bewley, Anderson, and Neal live in this District.
8. Bewley, Anderson, and Neal worked at Accel Logistic's office in Alvarado, Johnson County Texas, which is in the Dallas Division of the Northern District of Texas.
9. All of the events relevant to the claims in this case occurred in the Northern District of Texas.
10. Venue is therefore proper in the Northern District of Texas.

### **PARTIES**

11. Bewley, Anderson, and Neal worked as dispatchers for Accel Logistics within the past 3 years.
12. Accel Logistics is an oilfield service company.
13. Accel Logistics' gross volume of business exceeded \$500,000.00 each of the last three years.
14. Accel Logistics' employees are engaged in interstate commerce.
15. Accel Logistics is covered by the FLSA for each of the last 3 years.
16. Accel Logistics is therefore obligated to pay its non-exempt employees overtime under the FLSA.
17. Its employees routinely use, handle, sell, and/or work on vehicles, telephones, and hand tools.
18. These items were produced for interstate commerce or actually travelled in interstate commerce.

19. Accel Logistics may be served through its registered agent, Raul Castillo, at 2234 Commerce Dr., Arlington, Texas 76103.

20. The “FLSA Class” consists of “all current and former dispatchers who were employed by Accel Logistics and who were not paid overtime compensation for hours worked over 40 in any workweek during the three-year period preceding the filing of this complaint.”

### **FACTS**

21. Plaintiffs, and those similarly situated, routinely worked in excess of 40, 50, and 60 hours per week and more but were not paid all of their overtime wages for doing so because Defendant wrongly treated them as exempt employees, which they were not.

22. Accel Logistics knew Bewley, Anderson, and Neal worked more than 40 hours in certain workweeks because they were scheduled to be at Accel Logistics facilities in excess of 40 hours in certain workweeks.

23. Usually, Bewley, Anderson, and Neal and other dispatchers were required to work 5 days on and two days off.

24. The typical shift for Bewley, Anderson, and Neal and other dispatchers was 12 hours.

25. Often they would work over 90 hours in a given week.

26. However, Accel Logistics does not pay its dispatchers overtime.

27. Instead, Accel Logistics paid Bewley, Anderson, and Neal and the other dispatchers a salary only, and continues this practice with its current dispatchers.

28. Because they worked over 40 hours a week, Bewley, Anderson, and Neal and the other dispatchers are entitled to recover their unpaid overtime as well as other damages.

29. No advanced degree is required to be a dispatcher for Accel Logistics.

30. Being a dispatcher at Accel Logistics does not require specialized academic training as a standard prerequisite to entering the job.

31. To the extent the dispatchers make “decisions,” the decisions do not require the exercise of independent discretion and judgment with respect to matters of significance.

32. Instead, the dispatchers apply well-established procedures to perform their jobs.

33. The dispatchers do not set quality standards.

34. Dispatchers are not permitted to deviate from established standards.

### **COLLECTIVE ACTION ALLEGATIONS**

35. In addition to Bewley, Anderson, and Neal, Accel Logistics employed dozens of other dispatchers within the past 3 years.

36. Accel Logistics paid all its dispatchers a salary with no overtime pay.

37. This same pay system Accel Logistics applied to Bewley, Anderson, and Neal.

38. The FLSA Class performed job duties similar to the dispatcher duties performed by Bewley, Anderson, and Neal.

39. The FLSA Class is similarly situated to Bewley, Anderson, and Neal.

40. The FLSA Class should be notified of this action and given the chance to join pursuant to 29 U.S.C. § 216(b).

41. Absent this action, many members of the FLSA Class likely will not obtain redress of their injuries and Accel Logistics will retain the proceeds of the FLSA violations.

### **FIRST CAUSE OF ACTION – FLSA OVERTIME**

42. This action is authorized and instituted pursuant to the FLSA. 29 U.S.C. § 201, *et seq.*

43. All conditions precedent to this suit, if any, have been fulfilled.

44. At all material times, Plaintiffs were employees under the FLSA. 29 U.S.C. § 203(e).

45. At all material times, the FLSA Class was similarly situated to Bewley, Anderson, and Neal.

46. At all material times, Accel Logistics is a covered employer under the FLSA. 29 U.S.C. § 203(d).

47. By failing to pay Bewley, Anderson, and Neal and the FLSA Class overtime at 1 and ½ times their regular rates, Accel Logistics violated the FLSA.

48. Accel Logistics owes Bewley, Anderson, and Neal and the FLSA Class overtime wages equal to 1 and ½ their regular rates of pay for each overtime hour worked during the last 3 years.

49. Accel Logistics knew, or showed reckless disregard for whether, its failure to pay overtime violated the FLSA.

50. Accel Logistics' failure to pay Bewley, Anderson, and Neal and the FLSA Class is willful within the meaning of 29 U.S.C. § 255(a). *See Singer v. City of Waco*, 324 F.3d 813, 821-22 (5th Cir. 2003) (upholding a jury finding of wilfulness). Bewley, Anderson, and Neal and the FLSA Class specifically plead recovery for the preceding 3 year period.

51. Accel Logistics have not made a good faith effort to comply with the requirements of 29 U.S.C. § 260. Accordingly, Bewley, Anderson, and Neal and the FLSA Class are entitled to liquidated damages.

52. Where, as here, "the employers' actions or policies were effectuated on a companywide basis, notice may be sent to all similarly situated persons on a companywide basis." *Ryan v. Staff Care, Inc.*, 497 F. Supp.2d 820, 825 (N.D. Tex. 2007) (certifying nationwide collective action in FLSA case).

53. Accordingly, Plaintiffs seek to represent a collective action under 29 U.S.C. § 216(b) on behalf of "all current and former dispatchers who were employed by Accel Logistics and who

were not paid overtime compensation for hours worked over 40 in any workweek during the three-year period preceding the filing of this complaint.”

54. Bewley, Anderson, and Neal and the FLSA Class are entitled to recover all reasonable attorneys’ fees and costs incurred in this action.

**PRAYER**

55. Bewley, Anderson, and Neal pray for relief as follows:

- a. An order allowing this action to proceed as a collective action under the FLSA and directing notice to the FLSA Class;
- b. Judgment awarding Bewley, Anderson, and Neal and the FLSA Class all unpaid overtime compensation, liquidated damages, attorneys’ fees and costs under the FLSA;
- c. An award of post-judgment interest on all amounts awarded at the highest rate allowable by law; and
- d. All such other and further relief that Bewley, Anderson, and Neal and the FLSA Class are justly entitled.

Respectfully submitted,

*/s/ Shane McGuire*

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**ATTORNEYS FOR PLAINTIFFS**

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b> Micah Bewley, Elizabeth Anderson, and Patrick Neal, On Behalf of Themselves and All Others Similarly Situated</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Shane McGuire, THE MCGUIRE FIRM, PC, 102 N. College Ave., Ste. 301, Tyler, Texas 75702 903-630-7154</p>	<p><b>DEFENDANTS</b> Accel Logistics Inc</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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<b>IV. NATURE OF SUIT</b> <i>(Place an "X" in One Box Only)</i>					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	PROPERTY RIGHTS	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>IMMIGRATION</b>	<b>FEDERAL TAX SUITS</b>	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District *(specify)*     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:  
 Fair Labor Standards Act, 29 U.S.C. Section 201, et seq.

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    **DEMAND \$** \_\_\_\_\_    CHECK YES only if demanded in complaint: **JURY DEMAND:**     Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions):*    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE: 03/08/2017    SIGNATURE OF ATTORNEY OF RECORD: /s/ Shane McGuire

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Dispatchers Hit Accel Logistics with Unpaid Overtime Lawsuit](#)

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