

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ELIZABETH FOX, individually, and on
behalf of others similarly situated,

Plaintiff,

vs.

MASTERCORP, INC.,

Defendant.

Case No.

COLLECTIVE AND CLASS ACTION COMPLAINT WITH JURY DEMAND

Plaintiff, **ELIZABETH FOX**, (hereinafter referred to as “Plaintiff”), individually and on behalf of all others similarly situated, by and through her attorneys, **JTB LAW GROUP, LLC**, hereby brings this Collective and Class Action Complaint against Defendant, **MASTERCORP, INC.**, (hereinafter referred to as “Defendant”), and alleges of her own knowledge and conduct and upon information and belief as to all other matters, as follows:

INTRODUCTION

1. Plaintiff brings this action, individually and as a collective action on behalf of all others similarly situated, who elect to opt-in to this action to recover unpaid overtime wages, liquidated damages, and reasonable attorneys’ fees and costs as a result of Defendant’s willful violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §201, *et seq.* and attendant regulations at 29 C.F.R. § 516, *et seq.*

2. In addition, Plaintiff also brings this action, individually and as a Rule 23 class action on behalf of all others similarly situated pursuant to Fed. R. Civ. P. 23 to recover unpaid overtime wages, liquidated damages, pre-judgment interest, and reasonable attorneys’ fees and costs as a result of Defendant’s violation of the Colorado Wage Claim Act, C.R.S. § 8-4-101, *et*

seq. (the “CWA”), and the Colorado Minimum Wage Act, C.R.S. § 8-6-101, *et seq.*, as implemented by the Colorado Minimum Wage Order Number 34, 7 C.C.R. § 1103-1, *et seq.*, (“CMWO”) (collectively “Colorado law”).

3. Plaintiff worked for Defendant from approximately May 2014 until July 2018 as an hourly-paid Housekeeping Supervisor, Houseman and Dispatcher primarily at Defendant’s place of business.

4. Defendant violated the FLSA, CWA, and CMWO by automatically deducting thirty (30) minutes from hourly-paid Housekeeping Supervisors’, Housemen’s and Dispatchers’ pay for meal breaks with respect to shifts in which they did not receive bona fide uninterrupted meal breaks.

5. In addition, Defendant failed to provide hourly-paid Housekeeping Supervisors, Housemen and Dispatchers ten (10) minute rest periods for each four (4) hours worked or major fractions thereof. *See* 7 Colo. Code Regs. § 1103-1:8.

6. As a result of Defendant’s common unlawful policies, hourly-paid Housekeeping Supervisors, Housemen and Dispatchers, including Plaintiff, were not properly compensated for overtime hours at a rate of not less than one and one-half (1.5) times their regular rate of pay for all hours they worked in excess of forty (40) per workweek, in violation of the FLSA, CWA, and CMWO.

7. The FLSA, CWA and CMWO require non-exempt employees to be compensated for all hours worked inclusive of overtime wages worked in excess of forty (40) hours in a workweek pursuant to 29 U.S.C. § 207(a)(1) and 7 Colo. Code Regs. § 1103-1:4.

8. As hourly-paid Housekeeping Supervisors, Housemen, and Dispatchers, Plaintiff and the putative FLSA Collective and Rule 23 Class members performed primary job duties that

do not fall within any exemptions from overtime under the FLSA, CWA and CMWO.

9. Plaintiff brings this claim on behalf of herself and all hourly-paid Housekeeping Supervisors, Housemen and Dispatchers 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), defined as follows:

All hourly-paid Housekeeping Supervisors, Housemen and Dispatchers who worked for the Defendant at any time during the period of three (3) years prior to the commencement of this action through the date of judgment.

10. Plaintiff seeks to send a Notice pursuant to 29 U.S.C. § 216(b) to all hourly-paid Housekeeping Supervisors, Housemen and Dispatchers of Defendant permitting them to assert FLSA claims in this collective action by filing their individual consent forms.

11. Plaintiff asserts her CWA and CMWO claims not only individually, but also on behalf of the putative Rule 23 Class member pursuant to Fed. R. Civ. P. 23, defined as:

All hourly-paid Housekeeping Supervisors, Housemen and Dispatchers who worked for the Defendant in Colorado at any time during the period of three (3) years prior to the commencement of this action through the date of judgment.

12. For at least three (3) years prior to the filing of this Complaint, Defendant has willfully and intentionally committed widespread violations of the above-described statutes and corresponding regulations, in the manner described herein.

JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over Plaintiff's FLSA claims pursuant to 28 U.S.C. § 1331 because Plaintiff's claims raise a federal question under 29 U.S.C. § 201, *et seq.*

14. The court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367 because they derive from a common nucleus of operative facts as Plaintiff's

federal claim.

15. The Court has personal jurisdiction over Defendant because it engages in systematic and continuous contacts with the State of Colorado by, *inter alia*, employing individuals to work out of Colorado, including Plaintiff, and Plaintiff's claims arise out of those contacts.

16. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b)(2) and (3) because Defendant employed Plaintiff in this district and because a substantial portion of the events that give rise to the Plaintiff's claims occurred in this district.

PARTIES

Defendant

17. Defendant is a company incorporated in the State of Tennessee with a principal business address located at 3505 North Main Street, Crossville, Tennessee 38555.

18. Defendant is the industry leader in resort housekeeping and provides turn-key housekeeping services to more than a hundred resorts. *See* <https://www.mastercorp.com/en>.

Plaintiff – Elizabeth Fox

19. Plaintiff Elizabeth Fox is a resident of Pagosa Springs, Colorado and signed a consent form to join this lawsuit, which is attached as *Exhibit A*.

20. Defendant employed Plaintiff as an hourly paid employee from approximately May 2014 to July 2018.

21. Plaintiff worked in three (3) different positions – Housekeeping Supervisor, Houseman, and Dispatcher, all which are hourly paid positions.

22. Plaintiff's hourly rate of pay was \$13.50 an hour.

23. Plaintiff received paystubs from MasterCorp, Inc.

FACTUAL ALLEGATIONS

24. Defendant is an employer defined under Colo. Rev. Stat. Ann. § 8-4-101(6) and 29 U.S.C. § 203(d) of the FLSA.

25. Plaintiff and other hourly-paid Housekeeping Supervisors, Housemen and Dispatchers were “employees” of Defendant within the meaning of Colo. Rev. Stat. Ann. § 8-4-101(5) and 29 U.S.C. § 203(e)(1) of the FLSA.

26. Defendant was and continues to be “an enterprise engaged in commerce” within the meaning of the FLSA.

27. Defendant has an annual gross business volume in excess of \$500,000.

28. Defendant had two (2) or more employees handling, selling, or otherwise working on goods or materials that had been moved in or produced for commerce.

29. Defendant “suffered or permitted” Plaintiff and other Housekeeping Supervisors, Housemen and Dispatchers to work and thus “employed” them within the meaning of Colorado Statutes Ann. §§ 34:11-4.1 and 29 U.S.C. § 203(g) of the FLSA.

30. Defendant employed Housekeeping Supervisors, Housemen and Dispatchers, including Plaintiff, as an hourly-paid employee who performed duties that are not exempt from the FLSA’s, CWA’s and CMWO’s overtime requirements.

31. Housekeeping Supervisors, Housemen and Dispatchers regularly worked over forty (40) hours per week.

32. On most days, Defendant deducted thirty (30) minutes from Plaintiff’s pay for meal breaks despite the fact that in many such instances Plaintiff was required to perform her normal compensable work duties and did not receive a bona fide uninterrupted meal break.

33. In most weeks, Plaintiff’s and Housekeeping Supervisors’, Housemen’s and

Dispatchers' worked in excess of forty (40) hours in a workweek, thus, deducting thirty (30) minutes of time resulted in them not receiving pay for all their hours worked.

34. Thus, they did not receive pay for certain overtime hours which resulted in them not receiving time-and-a-half of their regular rate of pay for such hours as required under the FLSA and Colorado law.

35. For example, in the workweek of May 7, 2018 to May 13, 2018, Plaintiff worked over forty (40) hours and was not paid for the time spent working through her unpaid meal breaks.

36. In addition, Defendant maintained a common policy of failing to provide Plaintiff and other hourly-paid Housekeeping Supervisors, Housemen and Dispatchers with meal and rest periods as required under Colorado law.

37. Colorado law requires Employers to provide meal and rest breaks and must allow employees to take a paid ten-minute rest break for every four hours (or major fraction) worked. *Lozoya v. AllPhase Landscape Constr., Inc.*, 12-CV-1048-JLK, at *2 (D. Colo. Apr. 15, 2015).

38. Defendant failed to record time worked during meal breaks in which Housekeeping Supervisors, Housemen and Dispatchers did not receive a bona fide uninterrupted meal breaks.

39. Defendant failed to keep accurate records of total number of hours actually worked by employees each workweek and thus Housekeeping Supervisors, Housemen and Dispatchers were not properly paid for all hours worked.

40. As a result of Defendant's common unlawful policies, Plaintiff and the FLSA Collective and Rule 23 Class members were not properly compensated overtime at a rate of one and one-half (1.5) times their regular rate of pay for all hours they worked in excess of forty (40)

per workweek, in violation of the FLSA, CWA and CMWO.

41. The FLSA, CWA and CMWO require non-exempt employees to be compensated at the statutorily required overtime compensation at a rate not less than one and one-half (1.5) times their regular rate of pay for all hours worked in excess of forty (40) in a workweek pursuant 29 U.S.C. § 207(a)(1) and 7 C.R.R. § 1103-1:4.

42. At all relevant times alleged herein, Plaintiff and the putative FLSA Collective and Rule 23 Class members have been subjected to the common pay policy and practice of Defendant as stated herein that violated the FLSA, CWA and CMWO.

43. At all relevant times alleged herein, Defendant has, directly or indirectly, hired Plaintiff and the putative FLSA Collective and Rule 23 Class members; has controlled their work schedules, duties, protocols, applications, assignments and conditions of employment; and determined the rate and method of the payment of wages.

43. At all relevant times alleged herein, Defendant has maintained control, oversight, and direction over Plaintiff and the putative FLSA Collective and Rule 23 Class members, including the promulgation and enforcement of policies affecting the payment of their wages including overtime compensation.

43. Defendant's wrongful acts and/or omissions/commissions, as alleged herein, were not made in good faith, or in conformity with or in reliance on any written administrative regulation, order, ruling, approval, or interpretation by the U.S Department of Labor and/or any state department of labor, or any administrative practice or enforcement practice or enforcement policy of such departments.

44. Defendant knowingly, willfully, and/or with reckless disregard carried out its illegal pattern or practice regarding its failure to pay Plaintiff proper overtime compensation. As

set forth herein, other prior and current FLSA Collective and Rule 23 Class members were subjected to the same wrongful policies, practices, and/or procedures.

COLLECTIVE ACTION ALLEGATIONS

45. Plaintiff re-alleges and incorporates all previous paragraphs herein.

46. Plaintiff asserts the foregoing violations not only individually, but collectively pursuant to 29 U.S.C. 216(b) on behalf of the “FLSA Collective,” defined as:

All hourly-paid Housekeeping Supervisors, Housemen and Dispatchers who worked for the Defendant at any time during the period of three (3) years prior to the commencement of this action through the date of judgment.

(hereinafter referred to as the “FLSA Collective”). Plaintiff reserves the right to amend this definition as necessary.

47. With respect to the claims set herein, a collective action under the FLSA is appropriate because the employees described above are “similarly situated” to Plaintiff under 29 U.S.C. § 216(b). The class of employees on behalf of whom Plaintiff brings this collective action are similarly situated because: (a) they have been or are performing the same or similar job duties as one another on behalf of Defendant; (b) they were or are subject to the same or similar unlawful practices, policy, or plan; and (c) their claims are based upon the same factual and legal theories.

48. The employment relationships between Defendant and every FLSA Collective member are the same and differ only by name, location, and rate of pay.

49. Members of the FLSA Collective had their pay wrongfully deducted for meal breaks on days in which they did not receive bona fide uninterrupted meal breaks.

50. As a result of the foregoing policies, there were many weeks in which Defendant

failed to properly compensated members of the FLSA Collective overtime wages at a rate of one and one-half (1.5) times their regular rate of pay for all hours they worked in excess of forty (40) per workweek as required by the FLSA.

51. The precise number and identities of Collective members should be readily available from a review of Defendant's personnel and payroll records.

52. Defendant is aware that the FLSA applies to their business and they are required to adhere to the rules under the FLSA.

53. Defendant's conduct and practices, described herein, were and are willful, intentional, unreasonably, arbitrary, and in bad faith.

RULE 23 COLORADO CLASS ACTION ALLEGATIONS

54. Plaintiff re-alleges and incorporates all previous paragraphs herein.

55. Plaintiff also seeks to maintain this action pursuant to the Federal Rules of Civil Procedure Rule 23 (Fed. R. Civ. P. 23), as an opt-out class action, for an on behalf all hourly-paid Housekeeping Supervisors, Housemen and Dispatchers who have been affected by Defendant's common policies and practices, including failure to pay for meal breaks with respect to shifts in which they did not receive a bona fide uninterrupted meal break, failure to provide rest periods and failure to properly compensated overtime wages at a rate not less than one and one-half (1.5) times their regular rate of pay for all hours they worked in excess of forty (40) per workweek in violation of the Colorado Wage Act, C.R.S. § 8-4-101, *et seq.*, ("CWA") and Colorado Minimum Wage Order No. 34, 7 C.C.R. § 1103-1 ("CMWO").

56. Plaintiff asserts her CWA and CMWO claims not only individually, but also on the behalf of the putative Rule 23 Class defined as follows:

All hourly-paid Housekeeping Supervisors, Housemen and Dispatchers who worked for the Defendant in Colorado at any time during the period

of three (3) years prior to the commencement of this action through the date of judgment.

(hereinafter referred to as the “Class members”). Plaintiff reserves the right to amend this definition as necessary.

57. The members of the Rule 23 Class members are so numerous that joinder of all Class members in this case would be impractical. Plaintiff reasonably estimates that there are at least one thousand (1,000) Class members. Rule 23 Class members should be easy to identify from Defendant’s computer systems and electronic payroll and personnel records.

58. There is a well-defined community of interest among Rule 23 Class members and common questions of law and fact predominate in this action over any questions affecting each individual Class member. These common legal and factual questions, include, but are not limited to, the following:

- a. Whether the Rule 23 Class members were provided ten (10) minute rest periods for each four (4) hours worked or major fractions thereof;
- b. Whether the Rule 23 Class members received uninterrupted bona fide meal breaks for which thirty (30) minutes were automatically deducted from their pay despite the fact they did not take a bona fide uninterrupted meal; and
- c. Whether the Rule 23 Class members were properly compensated overtime wages at a rate not less than one and one-half (1.5) times their regular rate of pay for all hours they worked in excess of forty (40) per workweek.

59. Plaintiff’s claims are typical of those of the Rule 23 Class in that they and all other Class members suffered damages as a direct and proximate result of Defendant’s common and systemic payroll policies and practices. All of the Rule 23 Class members were subject to the same corporate practices of Defendant, as alleged herein, of failing to pay proper overtime wages, failure to provide bona fide uninterrupted meal break and rest breaks in the middle of each four hour work period. Any lawsuit brought by an employee of

Defendant would be identical to a suit brought by any other employee for the same violations and separate litigation would cause a risk of inconsistent results.

60. Plaintiff was employed by Defendant in the same capacity as all of the Rule 23 Class members. All Rule 23 Class members were treated the same or similarly by management with respect to pay or lack thereof. This treatment included, but was not limited to, failure to pay proper overtime wages, failure to provide bona fide uninterrupted meal break and rest breaks in the middle of each four hour work period. Thus, there are common questions of law and fact which are applicable to each and every one of the Rule 23 Class members.

61. Plaintiff will fully and adequately protect the interests of the Rule 23 Class members and have retained counsel who are qualified and experienced in the prosecution of nationwide wage and hour class actions. Plaintiff and their counsel do not have interests that are contrary to, or conflicting with, the interests of the Rule 23 Class members.

62. Defendant's corporate-wide policies and practices affected all Rule 23 Class members similarly, and Defendant benefited from the same type of unfair and/or wrongful acts as to each class member. Plaintiff's claim arises from the same legal theories as all other class members. Therefore, this case will be more manageable and efficient as a Rule 23 class action. Plaintiff and their counsel know of no unusual difficulties in this case.

COUNT I
(29 U.S.C. § 216(b) Individual Claim)
Violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
FAILURE TO PAY OVERTIME

63. Plaintiff re-alleges and incorporates all previous paragraphs herein.

64. 29 U.S.C. § 207(a)(1) provides:

[N]o employer shall employ any of his employees who in any

workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

65. Plaintiff regularly worked over forty (40) hours a week.

66. Defendant deducted time from Plaintiff's pay based on supposed meal break periods, including time that exceeded forty (40) hours in a workweek, despite the fact that in many such instances Plaintiff was required to perform her normal compensable work duties and/or was not relieved from duty.

67. Defendant failed to properly pay Plaintiff overtime wages at a rate not less than one and one-half (1.5) times her regular rate of pay for all hours he worked in excess of forty (40) per workweek.

68. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

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

70. As a result of Defendant's uniform and common policies and practices described above, Plaintiff was illegally deprived of overtime wages earned, in such amounts to be determined at trial, and is entitled to recovery of such total unpaid amounts, liquidated damages, reasonable attorneys' fees, costs and other compensation pursuant to 29 U.S.C § 216(b).

COUNT II
(29 U.S.C. § 216(b) Collective Action)
Violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
FAILURE TO PAY OVERTIME

71. Plaintiff re-alleges and incorporates all previous paragraphs herein.

72. Plaintiff and the FLSA Collective members regularly worked in excess of forty (40) hours per workweek.

73. Defendant deducted time from Plaintiff's and members of the FLSA Collective pay based on supposed meal break periods, including time that exceeded forty (40) hours in a workweek, despite the fact that in many such instances they were required to perform their normal compensable work duties and/or were not relieved from duty.

74. Defendant failed to properly pay Plaintiff and the FLSA Collective members overtime wages at a rate not less than one and one-half (1.5) times their regular rate of pay for all hours she worked in excess of forty (40) per workweek.

75. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

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

77. As a result of Defendant's uniform and common policies and practices described above, Plaintiff and the FLSA members were illegally deprived of proper overtime compensation earned, in such amounts to be determined at trial, and is entitled to recovery of such total unpaid amounts, liquidated damages, reasonable attorneys' fees, costs and other compensation pursuant to 29 U.S.C § 216(b).

COUNT III
(Individual Claim)

Violation of CWA, C.R.S. § 8-4-101, et seq. and CMWO, 7 C.C.R. § 1103-1:4
FAILURE TO PAY OVERTIME

78. Plaintiff re-alleges and incorporates all previous paragraphs herein.

79. Plaintiff regularly worked more than forty (40) hours per workweek.

80. 7 Colo. Code Regs. § 1103-1:4 provides:

Employees shall be paid time and one-half of the regular rate of pay for any work in excess of: (1) forty (40) hours per workweek.

81. Defendant failed to properly compensate Plaintiff for overtime hours at a rate of not less than one and one half (1.5) times of her regular rate of pay for hours worked in excess of forty (40) per workweek, as required by the CWA and CMWO.

82. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

83. Because Defendant willfully violated the CWA and CMWO, a three (3) year statute of limitations shall apply to such violation pursuant to C.R.S. § 8-4-122.

84. As a result of Defendant's uniform policies and practices described above, Plaintiff was illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and is entitled to recovery of such total unpaid amounts, liquidated damages, reasonable attorneys' fees, costs and other compensation pursuant to 7 C.C.R. § 1103-1:18.

COUNT IV
(Fed. R. Civ. P. 23 Class Action Claim)
Violations of CWA, C.R.S. § 8-4-101, et seq. and CMWO, 7 C.C.R. § 1103-1:4
FAILURE TO PAY OVERTIME

85. Plaintiff re-alleges and incorporates all previous paragraphs herein.

86. Plaintiff and the Rule 23 Class members regularly worked more than forty (40) hours per workweek.

87. Defendant failed to properly compensate Plaintiff and the Rule 23 Class members for overtime wages at a rate of not less than one and one-half (1.5) times their regular rate of pay for all hours they worked in excess of forty (40) per workweek, as required by the CWA and CMWO.

88. Defendant's conduct and practices, described herein, were willful, intentional,

unreasonably, arbitrary, and in bad faith.

89. Because Defendant willfully violated the CWA and CMWO, a three (3) year statute of limitations shall apply to such violation pursuant to C.R.S. § 8-4-122.

90. As a result of Defendant's uniform policies and practices described above, Plaintiff and the Rule 23 Class members was illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and is entitled to recovery of such total unpaid amounts, liquidated damages, reasonable attorneys' fees, costs and other compensation pursuant to 7 C.C.R. § 1103-1:18.

COUNT V
(Individual Claim)
Violations of CMWO, 7 C.C.R. § 1103-1, et seq.
FAILURE TO PROVIDE MEAL AND REST PERIODS

91. Plaintiff re-alleges and incorporates all previous paragraphs herein.

92. 7 Colo. Code Regs. § 1103-1:7 provides:

Employees shall be entitled to an uninterrupted and "duty free" meal period of at least a thirty minute duration when the scheduled work shift exceeds five consecutive hours of work. The employees must be completely relieved of all duties and permitted to pursue personal activities to qualify as a non-work, uncompensated period of time. When the nature of the business activity or other circumstances exist that makes an uninterrupted meal period impractical, the employee shall be permitted to consume an "on-duty" meal while performing duties. Employees shall be permitted to fully consume a meal of choice "on the job" and be fully compensated for the "on-duty" meal period without any loss of time or compensation.

7 Colo. Code Regs. § 1103-1:8 provides:

Every employer shall authorize and permit rest periods, which, insofar as practicable, shall be in the middle of each four (4) hour work period. A compensated ten (10) minute rest period for each four (4) hours or major fractions thereof shall be permitted for all employees. Such rest periods shall not be deducted from the employee's wages. It is not necessary that the employee leave the

premises for said rest period.

93. Plaintiff performed her normal compensable work duties through her meal period and rest period in workweeks exceeding forty (40) hours in a workweek.

94. Regardless, Defendant deducted time from Plaintiff's pay based on supposed meal break periods and failed to provide Plaintiff with uninterrupted and "duty free" meal periods of at least a thirty (30) minute durations when her scheduled work shifts exceeded five consecutive hours of work.

95. In addition, Defendant failed to provide Plaintiff with ten (10) minute rest periods for each four (4) hours worked or major fractions thereof.

96. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

97. Because Defendant willfully violated the CMWO, a three (3) year statute of limitations shall apply to such violation pursuant to C.R.S. § 8-4-122.

COUNT VI
(Fed. R. Civ. P. 23 Class Action Claim)
Violations of CMWO, 7 C.C.R. § 1103-1, et seq.
FAILURE TO PROVIDE MEAL AND REST PERIODS

98. Plaintiff re-alleges and incorporates all previous paragraphs herein.

99. Plaintiff and the Rule 23 Class members performed their normal compensable work duties through their meal period and rest period in workweeks exceeding forty (40) hours in a workweek.

100. Regardless, Defendant deducted time from Plaintiff and the Rule 23 Class members pay based on supposed meal break periods and failed to provide Plaintiff with uninterrupted and "duty free" meal periods of at least a thirty (30) minute durations when their scheduled work shifts exceeded five consecutive hours of work.

101. In addition, Defendant failed to provide Plaintiff and the Rule 23 Class members with ten (10) minute rest periods for each four (4) hours worked or major fractions thereof.

102. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

103. Because Defendant willfully violated the CMWO, a three (3) year statute of limitations shall apply to such violation pursuant to C.R.S. § 8-4-122.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief against Defendant:

(A) A declaratory judgment that Defendant's wage practices alleged herein violate the overtime provisions of 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 Defendant's wage practices alleged herein violate the Colorado Wage Claim Act, C.R.S. § 8-4-101, *et seq.* ("CWA"), and the Colorado Minimum Wage Act, C.R.S. § 8-6-101, *et seq.*, as implemented by the Colorado Minimum Wage Order Number 34, 7 C.C.R. § 1103-1:18, *et seq.*, ("CMWO");

(C) An Order for injunctive relief ordering Defendant to comply with the FLSA, CWA and CMWO and end all of the illegal wage practices alleged herein;

(D) Certifying this case as a collective action in accordance with 29 U.S.C. § 216(b) with respect to the FLSA claims set forth herein;

(E) Certifying this action as a class action pursuant to Fed R. Civ. P. 23 with respect to Plaintiff's state law claim set forth herein;

(F) Ordering Defendant to disclose in computer format, or in print if no computer

readable format is available, the names, addresses, e-mail addresses, telephone numbers, dates of birth, job titles, dates of employment and locations of employment of all putative FLSA Collective and Rule 23 Class members;

(G) Authorizing Plaintiff's counsel to send notice(s) of this action to all putative FLSA Collective and Rule 23 Class members, including the publishing of notice in a manner that is reasonably calculated to apprise the FLSA Collective and Class members of their rights by law to join and participate in this lawsuit;

(H) Designating Lead Plaintiff as the representative of the FLSA Collective and Rule 23 Class members in this action;

(I) Designating the undersigned counsel as counsel for the FLSA Collective and Rule 23 Class members in this action;

(J) Judgment for damages for all unpaid overtime compensation and liquidated damages to which Plaintiff and the FLSA Collective members are lawfully entitled under the FLSA, 29 U.S.C. § 201, *et seq.*, and attendant regulations at 29 C.F.R. § 516, *et seq.*;

(K) Judgment for damages for all unpaid overtime compensation and penalties to which Plaintiff and the members of the Rule 23 Class are lawfully entitled under the Colorado Wage Act, C.R.S. § 8-4-101, *et seq.* and Colorado Minimum Wage Order No. 34, 7 C.C.R. § 1103-1, *et seq.*;

(L) An incentive award for the Lead Plaintiff for serving as representative of the FLSA Collective and Rule 23 Class members in this action;

(M) Declaring Defendant willfully violated the FLSA, CWA, CMWO and the Department of Labor's attendant regulations as cited herein;

(N) Declaring Defendant violated and that said violations were intentional, willfully

oppressive, fraudulent and malicious;

(O) Awarding reasonable attorneys' fees and costs incurred by Plaintiff in this action as provided by the FLSA, CWA and CMWO;

(P) Judgment for any and all civil penalties to which Plaintiff and the members of the FLSA Collective and Rule 23 Class members may be entitled; and

(Q) Awarding such other and further relief as this Court deems necessary, just and proper.

JURY DEMAND

Plaintiff Elizabeth Fox individually and on behalf of all other FLSA Collective and Rule 23 Class members, by and through her attorneys, hereby demand a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure and the court rules and statutes made and provided with respect to the above entitled claims.

RESPECTFULLY SUBMITTED,

Dated: September 14, 2018

By: /s/ Nicholas R. Conlon

Nicholas R. Conlon

Jason T. Brown

JTB LAW GROUP, LLC

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Counsel for Plaintiff

EXHIBIT

A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ELIZABETH FOX, individually, and on
behalf of others similarly situated,

Plaintiff,

vs.

MASTERCORP, INC.,

Defendant.

Case No.

CONSENT TO SUE

I hereby consent to be a Plaintiff in the Fair Labor Standards Act case captioned above. I hereby consent to the bringing of any claims I may have under the Fair Labor Standards Act (for unpaid overtime wages, liquidated damages, attorney's fees, costs and other relief) and applicable state wage and hour law against the Defendant. I further consent to bringing these claims on a collective and/or class basis with other current/former employees of Defendant, to be represented by JTB Law Group LLC and to be bound by any settlement of this action or adjudication by the Court.

Signed:

Elizabeth Fox

Dated:

09/14/2018

Name:

Elizabeth Fox

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.)

I. (a) PLAINTIFFS ELIZABETH FOX, individually, and on behalf of others similarly situated, (b) County of Residence of First Listed Plaintiff Archuleta County, Colorado <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i> (c) Attorneys (Firm Name, Address, and Telephone Number) Jason T. Brown; Nicholas R. Conlon JTB Law Group, LLC 155 2nd St, Suite 4, Jersey City, NJ 07302 / T: (877) 561-0000	DEFENDANTS MASTERCORP, INC., County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known) _____
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II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i> <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant </div> <div style="width:48%;"> <input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i> <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i> </div> </div>	III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i> <i>(For Diversity Cases Only)</i> <table style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> </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 or 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 and 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>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or 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 and 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
	PTF	DEF		PTF	DEF																				
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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																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

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 (Excl. 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	PERSONAL INJURY <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 - Med. Malpractice PERSONAL INJURY <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 PERSONAL PROPERTY <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 LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<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 <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	CIVIL RIGHTS <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	PRISONER PETITIONS Habeas Corpus: <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 Other: <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		

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

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 29 U.S.C. § 216(b)

VI. CAUSE OF ACTION

Brief description of cause: ☐ AP Docket
 Violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §201, et seq.

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

DATE

09/14/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [MasterCorp Owes Unpaid Wages to Employees Who Worked Through Meal Breaks, Lawsuit Claims](#)
