

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

NOV 02 2018

JAMES W. McCORMACK, CLERK  
By: [Signature] **PLAINTIFF** DEP CLERK

**STANLEY LONG, Individually and on  
Behalf of All Those Similarly Situated**

vs.

No. 4:18-cv- 820 - BSM

**HCL AMERICA, INC.**

This case assigned to District Judge Miller  
and to Magistrate Judge Volpe

**DEFENDANT**

**ORIGINAL COMPLAINT – CLASS AND COLLECTIVE ACTION**

COMES NOW Stanley Long, by and through his attorneys Chris Burks and Josh Sanford of Sanford Law Firm, PLLC, and for his Original Complaint – Class and Collective Action (“Complaint”), he does hereby state and allege as follows:

**I. PRELIMINARY STATEMENTS**

1. This is an action brought by Plaintiff Stanley Long, individually and on behalf of all those similarly situated, against Defendant HCL America, Inc. (“Defendant”), for violations of the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the “FLSA”), and the Arkansas Minimum Wage Act, Ark. Code Ann. § 11-4-201, *et seq.* (the “AMWA”).

2. Plaintiff seeks declaratory judgment; monetary damages; liquidated damages; prejudgment interest; costs; and a reasonable attorney’s fee, as a result of Defendant’s policy and practice of failing to pay Plaintiff proper overtime compensation under the FLSA and under the AMWA within the applicable statutory limitations period.

## **II. JURISDICTION AND VENUE**

3. The United States District Court for the Eastern District of Arkansas has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this suit raises federal questions under the FLSA.

4. This Complaint also alleges AMWA violations, which arise out of the same set of operative facts as the federal cause of action herein alleged; accordingly, this state cause of action would be expected to be tried with the federal claim in a single judicial proceeding. This Court has supplemental jurisdiction over Plaintiff's AMWA claims pursuant to 28 U.S.C. § 1367(a).

5. A substantial part of the acts complained of herein were committed and had their principal effect against Plaintiff within the Western Division of the Eastern District of Arkansas; therefore, venue is proper within this District pursuant to 28 U.S.C. § 1391.

## **III. THE PARTIES**

6. Plaintiff Stanley Long is a citizen and resident of Faulkner County.

7. Defendant HCL America, Inc., is a foreign for-profit corporation registered to do business in the State of California.

8. Defendant HCL America, Inc.'s, principal place of business is 330 Potrero Avenue, Sunnyvale, California 94086.

9. Defendant HCL America, Inc., provides technological products and support to other businesses.

10. Defendant HCL America, Inc.'s, services include installation and servicing of technological products out of 425 West Capitol Avenue, Floor 21, Little Rock, Arkansas 72201.

11. The registered agent of Defendant HCL America, Inc. is C T Corporation System at 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

#### **IV. FACTUAL ALLEGATIONS**

12. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

13. To support its services related to information technologies services and products, Defendant hires individuals including Plaintiff Long as Systems Specialists.

14. The duties of systems specialists for Defendant are to perform tasks related to the installation of computer systems for Defendant's clients.

15. At all relevant times, Plaintiff worked on projects or with materials, such as computers and other electronics, that had been moved or included in interstate commerce.

16. For each of the three calendar years preceding the filing of the Original Complaint in this case, Defendant's annual gross volume of sales made or business done was not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated).

17. At all times relevant to this Complaint, Defendant employed more than four employees.

18. At all relevant times, Defendant was Plaintiff's employer and is and has been engaged in interstate commerce as that term is defined under the FLSA.

19. At all relevant times, Defendant was Plaintiff's employer under the AMWA.

20. Defendant directly hired Plaintiff, paid him wages and benefits, controlled his work schedules, duties, protocols, applications, assignments and employment conditions, and kept at least some records regarding his employment.

21. Plaintiff performed the duties of a systems specialist for Defendant during the last three years.

22. As a systems specialist for Defendant, Plaintiff was required to clock-in and clock-out each day.

23. Plaintiff also performed work for Defendant off-the-clock.

24. Plaintiff and other systems specialists regularly worked between forty and fifty hours per week.

25. Defendant classified Plaintiff as exempt from the overtime requirements of the FLSA and the AMWA and did not pay him proper overtime premiums for the hours he worked in excess of forty (40) in a workweek.

26. Defendant did not guarantee Plaintiff a salary of at least \$455 per week.

27. Despite working more than forty hours per week on a regular basis, Plaintiff and other systems specialists were only paid half their regular rates for any hours worked over forty, and not the proper overtime premium.

28. Defendant did not pay Plaintiff and other systems specialists an overtime premium of one and-one-half times their regular rates of pay for all hours that they worked over forty per week.

## **V. INDIVIDUAL CLAIM UNDER THE FLSA**

29. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

30. 29 U.S.C. § 207 requires employers to pay employees one and one-half times the employee's regular rate for all hours that the employee works in excess of forty (40) per week. 29 U.S.C.S. § 207 (LEXIS 2013).

31. Defendant violated the FLSA by not paying Plaintiff one and one-half times his regular rate when calculating his overtime pay for all hours worked over forty in a given workweek and by not paying him for all hours worked.

32. Defendant's conduct and practice, as described above, has been and is willful, intentional, unreasonable, arbitrary and in bad faith.

33. By reason of the unlawful acts alleged herein, Defendant is liable to Plaintiff for, and Plaintiff seeks, unpaid overtime wages, liquidated damages, pre-judgment interest, civil penalties and costs, including reasonable attorney's fees as provided by the FLSA.

## **VI. INDIVIDUAL CLAIM UNDER THE AMWA**

34. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as though fully incorporated in this section.

35. Plaintiff asserts this claim for damages and declaratory relief pursuant to the AMWA.

36. At all relevant times, Defendant was Plaintiff's "employer" within the meaning of the AMWA.

37. Arkansas Code Annotated § 211 requires employers to pay all employees one and one-half times regular wages for all hours worked over forty hours in a week, unless an employee meet the exemption requirements of 29 U.S.C. § 213 and accompanying Department of Labor regulations.

38. Defendant failed to pay Plaintiff for all hours worked and all overtime wages owed, as required under the AMWA.

39. Defendant's failure to pay Plaintiff overtime of one and one-half his regular rate of pay for all hours worked resulted in a failure to pay Plaintiff full and complete overtime during weeks in which Plaintiff worked more than forty hours.

40. Defendant's conduct and practices, as described above, were willful, intentional, unreasonable, arbitrary and in bad faith.

41. By reason of the unlawful acts alleged herein, Defendant is liable to Plaintiff for monetary damages, liquidated damages, costs, and a reasonable attorney's fee provided by the AMWA for all violations which occurred beginning at least three (3) years preceding the filing of Plaintiff's Original Complaint.

42. Alternatively, should the Court find that Defendant acted in good faith in failing to pay Plaintiff as provided by the AMWA, Plaintiff is entitled to an award of prejudgment interest at the applicable legal rate.

## **VII. FLSA § 216(b) REPRESENTATIVE ACTION ALLEGATIONS**

43. Plaintiff repeats and re-alleges all the preceding paragraphs of this Original Complaint as if fully set forth in this section.

44. Plaintiff brings this collective action on behalf of all Systems Specialists, or similar positions, employed by Defendant to recover monetary damages owed by

Defendant to Plaintiff and members of the putative Classes for all the overtime compensation for all the hours he and they worked in excess of forty (40) each week.

45. Plaintiff brings this action on behalf of himself individually *and* all other similarly situated employees, former and present, who were and/or are affected by Defendant's willful and intentional violation of the FLSA.

46. In the past three years, Defendant has employed hundreds of Systems Specialists.

47. Like Plaintiff, these Systems Specialists, or similar positions, regularly worked more than 40 hours in a week.

48. Defendant failed to pay these workers at the proper overtime rate. Because these employees are similarly situated to Plaintiff, and are owed overtime for the same reasons, the first 216(b) opt-in class is properly defined as:

**All Systems Specialists Within the Past Three Years**

**VIII. RULE 23 REPRESENTATIVE ACTION ALLEGATIONS**

49. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as though fully incorporated in this section.

50. Plaintiff, individually and on behalf of all others similarly situated who were employed by Defendant within the State of Arkansas, brings this claim for relief for violation of the AMWA as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

51. Plaintiff proposes to represent an AMWA liability class of individuals defined as follows:

**All Systems Specialists in Arkansas Within the Last Three Years.**

52. Upon information and belief, there are more than 40 persons in the proposed class. Therefore, the proposed class is so numerous that joinder of all members is impracticable.

53. Common questions of law and fact relate to all of the proposed liability class members, such as these:

- i. Whether Defendant's policy of failing to properly pay overtime-rate wages to members of the proposed class who worked in excess of forty (40) hours per week was unlawful under the AMWA; and
- ii. Whether, as a result of Defendant's failure to lawfully calculate Plaintiff's overtime pay, Defendant paid members of the proposed class one and one-half times their regular wages for hours worked over forty (40) in each week in accordance with the AMWA.

54. The above common questions of law and fact predominate over any questions affecting only Plaintiff, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

55. The class members have no interest in individually controlling the prosecution of separate actions because the policy of the AMWA provides a bright-line rule for protecting all non-exempt employees as a class. To wit: "It is declared to be the public policy of the State of Arkansas to establish minimum wages for workers in order to safeguard their health, efficiency, and general well-being and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels detrimental to their health, efficiency and well-being." Ark. Code Ann. § 11-4-202. To that end, all non-exempted employees must be paid for time worked over forty (40) hours per week at a rate of one and one-half times their regular rate. Ark. Code Ann. § 11-4-211.



56. At the time of the filing of this Complaint, neither Plaintiff nor his counsel know of any litigation already begun by any members of the proposed class concerning the allegations in this complaint.

57. No undue or extraordinary difficulties are likely to be encountered in the management of this class action.

58. The claims of Plaintiff are typical of the claims of the proposed liability class in that Plaintiff and all others in the proposed liability class will claim that they were not paid one and one-half times their regular rate of pay for hours worked in excess of forty per week.

59. Plaintiff and his counsel will fairly and adequately protect the interest of the class.

60. Plaintiff is competent to litigate Rule 23 class actions and other complex litigation matters, including wage and hour cases like this one.

#### **IX. PRAYER FOR RELIEF**

WHEREFORE, premises considered, Plaintiff Stanley Long, individually and on behalf of all those similarly situated, respectfully prays that Defendant be summoned to appear and to answer herein and for declaratory relief and damages as follows:

A. Certification of a class pursuant to the Arkansas Rules of Civil Procedure, with all attendant notices to class members, and proper procedures, all as set forth above and as to be explained more fully by motion practice;

B. Certification of a collective action pursuant to § 216(b) of the FLSA, with all attendant notices to collective members, and proper procedures, all as set forth above and as to be explained more fully by motion practice;

C. A declaratory judgment that Defendant's practices alleged herein violate the FLSA, the AMWA, and their relating regulations;

D. Judgment for damages for all unpaid overtime compensation under the FLSA, the AMWA, and their relating regulations;

E. Judgment for liquidated damages pursuant to the FLSA, the AMWA, and their relating regulations;

F. An order directing Defendant to pay Plaintiff and all other similarly situated employees prejudgment interest, a reasonable attorney's fee and all costs connected with this action; and

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

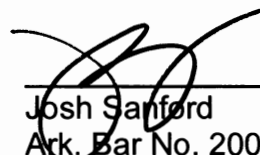
Respectfully submitted,

**PLAINTIFF STANLEY LONG,  
Individually and On Behalf of  
All Those Similarly Situated**

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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**

STANLEY LONG, Individually and on Behalf of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff **Faulkner**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Josh Sanford, SANFORD LAW FIRM, PLLC, One Financial Center,  
650 South Shackleford, Suite 411, Little Rock, Arkansas 72211  
501-221-0088; josh@sanfordlawfirm.com

**DEFENDANTS**

HCL AMERICA, INC.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | 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 |

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

Click here for: Nature of Suit Code Descriptions.

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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <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	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <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 <b>Other:</b> <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	<b>LABOR</b> <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"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <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

**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 - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 USC 201

Brief description of cause:

Unpaid Overtime

**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

SIGNATURE OF ATTORNEY OF RECORD

11/02/2018

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: [HCL America Hit with Lawsuit Over Allegedly Unpaid Overtime Wages](#)

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