

**EXHIBIT A**

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —  
TORT — MOTOR VEHICLE TORT — CONTRACT —  
EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT  
DEPARTMENT  
OF THE  
TRIAL COURT  
CIVIL ACTION

MIDDLESEX, ss

No. 1781CV02114



Edward Reynoso, indiv.  
and on behalf of all Plaintiff(s)  
others similarly situated

y.  
Lagership, Inc.  
and Blake Allred, Defendant(s)

FILED COPY ATTEST  
DEPUTY SHERIFF  
Middlesex County  
7/28/17  
DATE OF SERVICE

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Raven Moesinger  
plaintiff's attorney, whose address is 99 High St, Suite 503  
BOSTON, MA 02110, an answer to the complaint which is herewith  
served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you  
fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also  
required to file your answer to the complaint in the office of the Clerk of this court at 200 Trade Centre  
Woburn, MA 01801 either before service upon plaintiff's attorney or within a  
reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may  
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
claim or you will thereafter be barred from making such claim in any other action.

Witness, Esquire, at 5:30 pm  
the 21<sup>st</sup> day of July  
in the year of our Lord 2017

[Signature]  
Clerk

NOTES.

- 1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
- 2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

<b>CIVIL ACTION COVER SHEET</b>	DOCKET NUMBER	<b>Trial Court of Massachusetts</b> <b>The Superior Court</b>
PLAINTIFF(S): Edward Reynolds, indiv. and on behalf of all others similarly-situated ADDRESS: _____		COUNTY <u>Middlesex</u> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	DEFENDANT(S): Lesership, Inc. and Blake Averill	
ATTORNEY: Tallulah Q Knopp, Law Office of Nicholas F. Ortiz, P.C. ADDRESS: 99 High Street, Suite 304, Boston, MA 02110	ADDRESS: 60 Olympia Avenue, Woburn, MA 01801	
BBO: 697086	<b>TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)</b>	
CODE NO. A01	TYPE OF ACTION (specify) Services, Labor, and Materials	TRACK F
		HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
*If "Other" please describe: _____		
<b>STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A</b>		
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
<b>TORT CLAIMS</b> (attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses .....	\$	_____
2. Total doctor expenses .....	\$	_____
3. Total chiropractic expenses .....	\$	_____
4. Total physical therapy expenses .....	\$	_____
5. Total other expenses (describe below) .....	\$	_____
	<b>Subtotal (A):</b>	\$ _____
B. Documented lost wages and compensation to date .....		
C. Documented property damages to dated .....		
D. Reasonably anticipated future medical and hospital expenses .....		
E. Reasonably anticipated lost wages .....		
F. Other documented items of damages (describe below) .....		
G. Briefly describe plaintiffs injury, including the nature and extent of injury:		
		<b>TOTAL (A-F):</b> \$ _____
<b>CONTRACT CLAIMS</b> (attach additional sheets as necessary)		
Provide a detailed description of claims(s): class-wide misclassification as independent contractor and non-payment of overtime wages in violation of state law.		
		TOTAL: \$ <u>Class-wide Dam 25K</u>
Signature of Attorney/Pro Se Plaintiff: X <u>Jane</u>		Date: 7/12/2017
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.		
<b>CERTIFICATION PURSUANT TO SJC RULE 1:18</b>		
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.		
Signature of Attorney of Record: X <u>Jane</u>		Date: 7/12/2017

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX ss.

SUPERIOR COURT  
DEPARTMENT OF  
THE TRIAL COURT

_____	)	
EDWARD REYNOSO,	)	
individually and on behalf of all others	)	
similarly-situated,	)	
	)	
Plaintiff,	)	
	)	C. A. No.
v.	)	
	)	
LASERSHIP, INC.,	)	
and BLAKE AVERILL,	)	
	)	
Defendants.	)	
_____	)	

CLASS ACTION COMPLAINT

I. INTRODUCTION

Edward Reynoso brings this class action individually and on behalf of a group of delivery drivers similarly-situated who performed package delivery services for the Defendants and were misclassified as independent contractors. The Plaintiff and putative class members are, in fact, employees of Lasership, Inc. under the Massachusetts Wage Act because they are subject to the direction and control of Lasership, Inc., their services are rendered in the regular course of Lasership's business, and the class members do not maintain independent trades or businesses apart from their work for Lasership. As a result of this misclassification, the Plaintiff and putative class members suffered financial harm, as Defendants unlawfully passed on to them business expenses that could not lawfully be shifted to employees. Additionally, Plaintiff and putative class members sometimes worked in excess of 40 hours a week and did not receive overtime payments.

## II. PARTIES

1. Plaintiff Edward Reynoso is an individual who resides in Lawrence, Massachusetts.
2. Defendant Lasership, Inc. is a foreign corporation with a usual place of business located at 60 Olympia Avenue, Woburn, MA 01801.
3. Defendant Blake Averill is the CEO of Lasership, Inc. and, on information and belief, resides in the Washington D.C. metro area.
4. Defendant Averill is an officer or agent of Lasership, Inc. and controls, directs, and participates to a substantial degree in formulating and determining the financial policy of the business.
5. Defendants Lasership, Inc. and Blake Averill (hereinafter collectively referred to as "Lasership") employed the Plaintiff.

## III. JURISDICTION

6. This Court has jurisdiction to address this matter pursuant to, *inter alia*, M.G.L. c. 149, § 150, M.G.L. c. 151, § 20, and its inherent common law authority.
7. The Plaintiff has received written assent to bring this private civil action from the Massachusetts Attorney General pursuant to M.G.L. c. 149, § 150. A copy of the assent letter is attached hereto and marked as Exhibit A.

## IV. STATEMENT OF FACTS

8. Lasership is a last-mile package delivery company.
9. Mr. Reynoso worked as a driver for Lasership from in or around November 2012 until in or around May 2017.

10. Throughout his employment with Lasership Mr. Reynoso was paid by the number of deliveries he made. Monday through Friday Lasership paid Mr. Reynoso \$2.50 per delivery and on Saturday and Sunday Lasership paid Mr. Reynoso \$4.00 per delivery.

11. Mr. Reynoso's primary job responsibility was to deliver packages.

12. Throughout the course of his employment, Mr. Reynoso was subject to the direction and control of Lasership in connection with the performance of his work. For example, Mr. Reynoso was required to drive a white van and wear a uniform bearing the Lasership logo.

13. Lasership assigned Mr. Reynoso certain routes, such as, the Needham/Dover and Dorchester/Mattapan routes.

14. Lasership required Mr. Reynoso and other delivery drivers to report to the warehouse by 8:30 AM to retrieve the packages associated with their assigned route.

15. At the end of the day, Lasership required Mr. Reynoso and other delivery drivers to call the warehouse to confirm that the route was complete.

16. Mr. Reynoso and other delivery drivers were required to pay for gasoline and Lasership did not provide mileage reimbursement.

17. The work Mr. Reynoso and other delivery drivers performed for Lasership is within Lasership's usual course of business.

18. Delivery drivers are a necessary part of Lasership's business.

19. While employed by Lasership, Mr. Reynoso and other delivery drivers did not engage in an independently established trade or business of the same nature as the service he performed for Defendants. In fact, Lasership prohibited Mr. Reynoso and other delivery drivers from performing delivery services for any other company.

20. Throughout the course of Mr. Reynoso and other delivery drivers' employment with Lasership, the company classified them as independent contractors.
21. Consequently, Lasership did not withhold payroll taxes from the wages paid to Mr. Reynoso and other delivery drivers.
22. Notwithstanding Lasership's treatment of its delivery drivers as independent contractors, the relationship between Lasership and Mr. Reynoso and his fellow delivery drivers was that of employer-employee.
23. Factors that create an employer-employee relationship between Lasership and Mr. Reynoso and other delivery drivers include, but are not limited to:
- a. Lasership directed and controlled its delivery drivers' work, including
    - i. Setting delivery drivers' schedules;
    - ii. Requiring delivery drivers to perform work during specific hours;
    - iii. Requiring delivery drivers make deliveries using a white van with the Lasership logo;
    - iv. Requiring delivery drivers wear a Lasership uniform;
  - b. The delivery of packages by delivery drivers is within the usual course of Lasership's business; and
  - c. Delivery drivers do not own or operate independent trades or businesses outside of their work for Lasership.
24. As a result of this misclassification, Mr. Reynoso and other delivery drivers have suffered damages.
25. When Lasership passed on business expenses to delivery drivers such as gasoline costs, vehicle maintenance, and the expenses of payroll taxes that are the responsibility of the employer, they caused Mr. Reynoso and other delivery drivers damages.
26. Throughout the course of Mr. Reynoso and other delivery drivers' employment with Lasership, they worked in excess of 40 hours in some workweeks.

27. Mr. Reynoso regularly worked more than 55 hours.
28. Throughout the course of his employment, Mr. Reynoso and other drivers used their own vehicles to perform deliveries for Lasership.
29. In some workweeks, Mr. Reynoso drove as many as 750 miles in the performance of his job duties.
30. At no time did Lasership reimburse Mr. Reynoso and other delivery drivers for all transportation expenses as required by applicable Massachusetts law.
31. The pay stubs Lasership issued to Mr. Reynoso and other delivery drivers do not list all of their hours worked, which has caused them damages, including lost wages.

#### V. CLASS ALLEGATIONS

32. Mr. Reynoso brings this action on behalf of himself and two classes of similarly-situated employees of the Defendants.
33. The Misclassification Class consists of all persons who delivered packages for Lasership at any time during the three-year period prior to the commencement of this action and were classified as independent contractors.
34. The Overtime Class consists of all persons who delivered packages for Lasership at any time during the three-year period prior to the commencement of this action and who were not paid one and one-half times their regular rate of pay for hours worked in excess of 40 in a workweek.
35. Mr. Reynoso meets the requirements of M.G.L. c. 149, § 150 and M.G.L. c. 151, § 1B to pursue this case on behalf of himself and others similarly-situated. The class he seeks to represent is similarly situated because they perform substantially the same job duties and are subjected to the same payment practices.



36. Mr. Reynoso and the class also meet the requirements of Mass. R. Civ. P. 23 to pursue this action as a class action.

37. The class is sufficiently numerous that joinder of all members is impracticable.

38. On information and belief, the class consists of more than 40 members.

39. There are questions of law and fact that are common to all members of the class. These questions predominate over any question affecting only individual class members. The gravamen of this complaint is based on a discrete uniform policy and practice of Defendants that affects a group of employees in a similar manner.

40. Mr. Reynoso's claims are typical of the claims of members of the class. All claims are based on the same factual and legal theories.

41. Mr. Reynoso will fairly and adequately represent the interests of class members. Mr. Reynoso has no conflict with any members of the class and is capable and willing to serve as a class representative. He has retained counsel competent and experienced in class action litigation.

42. Common questions of law and fact predominate over individual questions. Among the questions of law and fact common to Mr. Reynoso and the class are:

- a. Whether the Defendants' employment relationship with the Plaintiff and class members was that of independent contractor or employer-employee; and
- b. Whether the Defendants' failure to pay overtime wages is a violation of the Massachusetts Overtime Law

43. A class action is superior to all other available methods for the fair and efficient adjudication of the controversy, in that:

- a. The individual class members may not be aware that they have been wronged and are thus unable to prosecute individual actions;
- b. Concentration of the litigation concerning this matter in this Court is desirable;

- c. A failure of justice will result from the absence of a class action;
- d. The amounts at issue for individual class members are not substantial enough to make individual actions economic; and
- e. The class is of moderate size and no difficulties are likely to be encountered in the management of a class action.

## VI. CAUSES OF ACTION

44. For all counts that follow, the Plaintiff hereby realleges and incorporates by reference the facts and allegations contained in the preceding paragraphs of this pleading as if fully set forth herein.

### COUNT I

#### **MISCLASSIFICATION AS INDEPENDENT CONTRACTOR IN VIOLATION OF M.G.L. c. 149, §§ 148B, 150 (Misclassification Class)**

45. The Defendants classified and paid Mr. Reynoso and similarly-situated employees as independent contractors.
46. Pursuant to M.G.L. c. 149, § 148B, Mr. Reynoso and similarly-situated employees are employees under M.G.L. c. 149.
47. The Defendants failed to withhold federal or state income taxes from Mr. Reynoso and similarly-situated employees' wages, pay required employer-side payroll taxes, or pay unemployment compensation and workers' compensation contributions with respect to Mr. Reynoso and similarly-situated employees.
48. The Defendants shifted to Mr. Reynoso and other delivery drivers employment-related costs that should have been borne by the employer.
49. The Defendants' classification of Mr. Reynoso and similarly-situated employees as independent contractors, rather than employees, caused them damages.

**COUNT II**

**NON-PAYMENT OF OVERTIME WAGES IN VIOLATION OF M.G.L. c. 151,  
§§ 1A, 1B  
(Overtime Class)**

50. The Defendants did not pay Mr. Reynoso and similarly-situated employees earned overtime wages, as required by state law.

51. The Defendants' failure to comply with M.G.L. c. 151, § 1B entitles Mr. Reynoso and similarly-situated employees to recover three times their unpaid overtime wages, interest, reasonable attorneys' fees and costs of litigation.

**COUNT III**

**NON-PAYMENT OF EARNED OVERTIME WAGES IN VIOLATION OF M.G.L. c. 149,  
§§ 148, 150  
(Overtime Class)**

52. M.G.L. c. 149, § 148 requires that employers pay employees their earned wages.

53. By failing to pay Mr. Reynoso and similarly-situated employees overtime wages for their overtime hours, the Defendants failed to pay them the full amount of their earned wages when the same became due and payable.

54. The Defendants' failure to comply with M.G.L. c. 149, § 148 entitles Mr. Reynoso and similarly-situated employees to recover three times their unpaid wages, interest, reasonable attorneys' fees and costs of litigation.

**COUNT IV**

**FAILURE TO MAINTAIN PROPER PAYROLL RECORDS IN VIOLATION OF M.G.L.  
c. 149, § 148, M.G.L. c. 151, § 15, AND 454 CMR 27.07(2)  
(Misclassification and Overtime Classes)**

55. M.G.L. c. 149, § 148 provides:

An employer, when paying an employee his wage, shall furnish to such employee a suitable pay slip, check stub or envelope showing the name of

the employer, the name of the employee, the day, month, year, number of hours worked, and hourly rate, and the amounts of deductions or increases made for the pay period.

56. M.G.L. c. 151, § 15 provides:

Every employer shall keep a true and accurate record of the name, address and occupation of each employee, of the amount paid each pay period to each employee, of the hours worked each day and each week by each employee.

57. 454 CMR 27.07(2) provides:

For each employee, the employer shall keep a true and accurate record of the employee's name, complete address, social security number, occupation, amount paid each pay period, hours worked each day, rate of pay, vacation pay, any deductions made from wages, any fees or amounts charged by the employer to the employee, dates worked each week, and such other information as the Director or the Attorney General in their discretion shall deem material and necessary.

58. M.G.L. c. 151, § 19 provides:

An employer or the officer or agent of a corporation who fails to keep the true and accurate records required under [M.G.L. c. 151] ... shall have violated [M.G.L. c. 151, § 19].

59. M.G.L. c. 149, §150 provides:

An employee claiming to be aggrieved by a violation of section 19 of chapter 151 may ... prosecute in his own name ... a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits.

60. By failing to keep proper records of the hours worked by Mr. Reynoso and similarly-situated employees and issuing pay stubs that did not indicate the total number of hours worked, Mr. Reynoso and similarly-situated employees suffered damages and the Defendants violated M.G.L. c. 149, § 148, M.G.L. c. 151, §19, and 454 CMR 27.07(2).

61. The Defendants' failure to comply with M.G.L. c. 151, § 19 and M.G.L. c. 149, § 148 entitles Mr. Reynoso and similarly-situated employees to recover treble damages, interest, reasonable attorneys' fees and costs pursuant to M.G.L. c. 149, § 150.

**COUNT VI**

**UNJUST ENRICHMENT  
(Misclassification Class)**

62. By misclassifying Mr. Reynoso and similarly-situated employees as independent contractors, the Defendants have forced them to bear the costs incident to the Defendants' business.

63. The Defendants were unfairly and unjustly enriched by the amount of taxes, business costs, and expenses passed on to Mr. Reynoso and similarly-situated employees.

64. The Defendants benefited financially from the misclassification of Mr. Reynoso and similarly-situated employees as independent contractors and, as a result, they suffered damages.

WHEREFORE, Mr. Reynoso requests that the Court:

1. Certify this action as a class action pursuant to M.G.L. c. 149, § 150;
2. Certify this action as a class action pursuant to M.G.L. c. 151, § 1B;
3. In the alternative, certify this case as a class action pursuant to Mass. R. Civ. P. 23;
4. Appoint Mr. Reynoso as class representative, and the undersigned as class counsel;
5. Award treble damages, interest, reasonable attorneys' fees, and costs pursuant to M.G.L. c. 149, § 150 for misclassification as an independent contractor, in an amount to be determined at trial, on behalf of Mr. Reynoso and the Misclassification Class;
6. Award treble damages, interest, reasonable attorneys' fees, and costs pursuant to M.G.L. c. 151, § 1B for unpaid overtime wages, in an amount to be determined at trial, on behalf of Mr. Reynoso and the Overtime Class;

7. Award treble damages, interest, reasonable attorneys' fees, and costs pursuant to M.G.L. c. 149, § 150 for payroll records violations, in an amount to be determined at trial, on behalf of Mr. Reynoso and the Misclassification and Overtime Classes;
8. Award equitable damages for the Defendants' unjust enrichment, on behalf of Mr. Reynoso and the Misclassification Class; and
9. Award such other relief that the Court deems just.

**THE PLAINTIFF DEMANDS A TRIAL BY JURY**

Respectfully submitted,

EDWARD REYNOSO,  
by his attorneys,



Tallulah Q. Knopp (BBO# 697085)  
Raven Moeslinger (BBO# 687956)  
Nicholas F. Ortiz (BBO# 655135)  
Law Office of Nicholas F. Ortiz, PC  
99 High Street, Suite 304  
Boston, MA 02110  
(617) 338-9400  
rm@mass-legal.com

Dated: July 12, 2017

# EXHIBIT A



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

(617) 727-2200  
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[www.mass.gov/ago](http://www.mass.gov/ago)

June 6, 2017

Attorney Talhulah Knopp  
Law Office of Nicholas F. Ortiz, P.C.  
99 High Street, Suite 304  
Boston, MA 02110

RE: Edward Reynoso  
Authorization for Immediate Private Suit – LaserShip

Dear Attorney Knopp:

Thank you for contacting the Office of the Attorney General's Fair Labor Division.

This letter is to inform you that we carefully reviewed the complaint and have determined that the proper resolution of this matter may be through a private suit in civil court. Accordingly, we are authorizing you to pursue this matter through a civil lawsuit immediately.

Massachusetts General Laws, chapter 149, sec. 150 and chapter 151 secs. 1B and 20 establish a private right of action for employees who believe they are victims of certain violations of the state wage laws. If you elect to sue in civil court, you may bring an action on your clients' behalf and others similarly situated, and they may obtain injunctive relief, treble damages for any lost wages and other benefits, as well as costs of litigation and reasonable attorneys' fees.

Without making a judgement on the merits of the complaint, this correspondence represents this office's written assent to sue and grants you the authority to pursue this matter against the employer *as well as against the president, treasurer of the corporation and any officers or agents having the management of such corporation*, immediately, as permitted by Massachusetts General Laws chapters 149 and 151. This office will not take further enforcement action at this time.

Thank you for your attention to this matter.

Sincerely,

Fair Labor Division



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Employee Misclassification Class Action Against Lasership Ends Up in Virginia Federal Court](#)

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