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DENNIS FLOYD, *individually and on behalf  
of those similarly situated,*

Plaintiff,

v.

APPLIANCES CONNECTION, INC, *et al.*,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
BERGEN COUNTY

No: BER-L-003410-23

CLASS ACTION

**SECOND AMENDED INDIVIDUAL, COLLECTIVE, AND CLASS ACTION  
COMPLAINT**

Named Plaintiff Dennis Floyd (hereinafter referred to as “Named Plaintiff”), by and through undersigned counsel, hereby complains as follows against Defendants Appliances Connection, Inc., YF Logistics LLC, Polished.com Inc., Youssef Fouerti, Albert Fouerti, Elie Fouerti, and Douglas T. Moore. (hereinafter collectively referred to as “Defendants”).

**INTRODUCTION**

1. Named Plaintiff has initiated the instant action to redress Defendants’ violations of the New Jersey Wage and Hour Law (“NJWHL”). Named Plaintiff asserts that Defendants failed to pay Named Plaintiff and those similarly situated proper overtime compensation in violation of the NJWHL.

**PARTIES**

2. The foregoing paragraphs are incorporated herein as if set forth in full.

3. Named Plaintiff is an adult individual whom Defendants employed in New Jersey.

4. Defendant Appliances Connection, Inc. (hereinafter “Defendant ACI”) is a company doing business in New Jersey.

5. Defendant YF Logistics LLC (hereinafter “Defendant YF”) is a company located and doing business in New Jersey.

6. Defendant Polished.com Inc. (hereinafter “Defendant Polished.com”) is a company doing business in New Jersey.

7. Defendant Youssef Fouerti (hereinafter “Defendant Y. Fouerti”) was the owner of Defendant YF prior to its acquisition by Defendant ACI.

8. Defendant Albert Fouerti (hereinafter “Defendant A. Fouerti”) is the President of Defendant ACI.

9. Defendant Elie Fouerti (hereinafter “Defendant E. Fouerti”) is the Vice President of Defendant ACI.

10. Defendant Douglas T. Moore (hereinafter “Defendant Moore”) is the Chief Executive Officer of Defendant ACI.

11. Defendant ACI wholly owns Defendant YF.

12. Defendant Polished.com wholly owns Defendant ACI.

13. Because of their interrelation of operations, common management, common control over labor relations, and other factors as they relate to Named Plaintiff, the putative class action members, and the collective action members, Defendants ACI, YF, and Polished.com are sufficiently interrelated and integrated in their activities, labor relations, and management as same relate to Named Plaintiff, the putative class action members, and the collective action members that they may be treated as a single employer for purposes of the instant action.

14. At all times relevant herein, Defendants acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

**CLASS ACTION ALLEGATIONS**

15. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

16. Pursuant to Rule 4:32 of the New Jersey Rules of Civil Procedure, Named Plaintiff brings claims for relief to redress Defendants' violations of the New Jersey Wage and Hour Law individually and on behalf of a class.

17. Specifically Named Plaintiff seeks to represent a class of all individuals who worked for Defendants as drivers, driver helpers, appliance service technicians, appliance service technician helpers, or in other similar positions at any point during the period from six (6) years preceding the date this action was commenced through the present, who were subject to Defendants' pay practices and policies discussed herein (the members of this putative class are referred to as "Class Plaintiffs").

18. The class is so numerous that the joinder of all class members is impracticable. Named Plaintiff does not know the exact size of the class, as such information is in the exclusive control of Defendants; however, upon information and belief, the number of potential class members is more than forty (40).

19. Named Plaintiff's claims are typical of the claims of the putative class members, because Named Plaintiff, like all Class Plaintiffs, were New Jersey employees of Defendants whom Defendants failed to properly compensate for overtime hours worked as required by the NJWHL.

20. Named Plaintiff will fairly and adequately protect the interests of the putative class because Named Plaintiff's interests are coincident with, and not antagonistic to, those of the Class. Named Plaintiff has retained counsel with substantial experience in the prosecution of claims involving employee wage disputes.

21. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action. The class will be easily identifiable from Defendants' records.

22. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Such treatment will allow all similarly situated individuals to prosecute their common claims in a single forum simultaneously. Prosecution of separate actions by individual members of the putative class would create the risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for Defendants. Furthermore, the amount at stake for individual putative class members may not be great enough to enable all the individual putative class members to maintain separate actions against Defendants.

23. Questions of law and fact that are common to the members of the class and predominate over questions that affect only individual members of the class. Among the questions of law and fact that are common to the class is: a) whether Defendant YF is a trucking industry employer under N.J.S.A. § 12:56-19.1; b) whether Defendant ACI is a trucking industry employer under N.J.S.A. § 12:56-19.1; and c) whether Defendants failed to pay additional compensation of at least one and one-half times the regular rate to Named Plaintiff and Class Plaintiffs for hours worked more than 40 in a workweek.

**FACTUAL BACKGROUND**

24. The foregoing paragraphs are incorporated herein as if set forth in full.
25. Defendant ACI sells appliances to retail customers.
26. Defendant YF is a division within Defendant ACI, which handles the installment, servicing, and delivery of the appliances sold by Defendant ACI.
27. Defendant YF installs only appliances sold by Defendant ACI.
28. Defendant YF services only appliances sold by Defendant ACI.
29. Defendant delivers only appliances sold by Defendant ACI.
30. From in or around late-August 2019 to in or around June 2023, Named Plaintiff worked for Defendants, and specifically Defendant YF, as a driver helper or appliance service technician helper, which are interchangeable titles.
31. Named Plaintiff primary duties included/include installing, servicing, and delivering household appliances sold by Defendants.
32. From the beginning of Named Plaintiff's employment to in or around the end of 2021, Named Plaintiff performed his duties on local routes in New York and New Jersey, beginning and concluding each workday at Defendant YF's location in Hamilton, New Jersey.
33. Thereafter, Named Plaintiff worked over-the-road, spending nights away from home while performing his duties during workdays.
34. Defendant paid Named Plaintiff a daily rate, which began at \$150.00 and increased to \$170.00 during his employment.
35. Class Plaintiffs worked/work for Defendants, specifically Defendant YF, as drivers or appliance service technicians (which are interchangeable titles) and driver helpers or appliance service technician helpers (which are interchangeable titles).

36. Class Plaintiffs' primary duties included/include installing, servicing, and delivering household appliances sold by Defendants.

37. Defendants paid/pay Class Plaintiffs daily rates.

38. Named Plaintiff regularly worked more than 40 hours in a workweek throughout his employment with Defendant.

39. However, Defendants did not pay Named Plaintiff any additional compensation for hours worked more than 40 hours in a workweek.

40. Class Plaintiffs regularly worked/work more than 40 hours in a workweek.

41. However, Defendants did/do not pay Class Plaintiffs any additional compensation for hours worked more than 40 hours in a workweek.

42. Accordingly, Defendants failed/fail to pay Named Plaintiff and Class Plaintiffs overtime wages of at least one and one-half times their regular rates for hours worked more than 40 hours in a workweek.

43. Even if Defendants qualify for the trucking industry employer exemption under the NJWHL, Defendants failed/fail to pay Named Plaintiff and Class Plaintiffs overtime wages of at least one and one-half times the minimum wage for hours worked more than 40 hours in a workweek.

44. Furthermore, due to the number of hours Named Plaintiff worked in a workweek, his daily rate frequently failed to pay him a regular rate of at least the minimum wage rate under the NJWHL.

45. Due to the number of hours Class Plaintiffs worked/work in a workweek, their daily rates frequently failed/fail to pay them a regular rate of at least the minimum wage rate under the NJWHL.

46. As a result of Defendants' aforesaid actions, Named Plaintiff and Class Plaintiffs have suffered damages.

**COUNT I**  
**Violations of the New Jersey Wage and Hour Law ("NJWHL")**  
**(Failure to pay Overtime Wages)**

47. The foregoing paragraphs are incorporated herein as if set forth in full.

48. At all times relevant herein, Defendants have and continue to be "employers" within the meaning of the NJWHL.

49. At all times relevant herein, Defendants were/are responsible for paying wages to Named Plaintiff and Class Plaintiffs.

50. At all times relevant herein, Named Plaintiff and Class Plaintiffs were/are employed with Defendants as "employees" within the meaning of the NJWHL.

51. Defendants' conduct in failing to pay Named Plaintiff and Class Plaintiffs proper overtime compensation for all hours worked more than 40 in a workweek violated the NJWHL.

52. Defendants' failure to pay overtime wages to Named Plaintiff and Class Plaintiffs was not an inadvertent error made in good faith.

53. Defendants had no reasonable grounds for believing that failing to pay overtime wages to Named Plaintiff and Class Plaintiffs was lawful under the NJWHL.

**COUNT II**  
**Violations of the New Jersey Wage and Hour Law ("NJWHL")**  
**(Failure to pay Minimum Wage)**

54. The foregoing paragraphs are incorporated herein as if set forth in full.

55. Defendants' conduct in failing to pay Named Plaintiff and Class Plaintiffs the minimum wage for all hours worked in a workweek violated the NJWHL.

56. Defendants' failure to pay the minimum wage to Named Plaintiff and Class Plaintiffs was not an inadvertent error made in good faith.

57. Defendants had no reasonable grounds for believing that failing to pay the minimum wage to Named Plaintiff and Class Plaintiffs was lawful under the NJWHL.

58. Defendants' conduct caused Named Plaintiff and Class Plaintiffs to suffer damages.

**WHEREFORE**, Named Plaintiff and Class Plaintiffs pray that this Court enter an Order providing that:

A. Defendants are to be prohibited from continuing to maintain their illegal policy, practice or customs in violation of state wage and hour laws;

B. Defendants are to compensate, reimburse, and make Named Plaintiff and Class Plaintiffs whole for any and all pay they would have received had it not been for Defendants' illegal actions, including but not limited to past lost earnings;

C. Named Plaintiff and Class Plaintiffs are to be awarded liquidated damages under the NJWHL in an amount equal to 200% of the actual damages in this case;

D. Named Plaintiff and Class Plaintiffs are to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable federal and state law;

E. Named Plaintiff and Class Plaintiffs are to be awarded all other relief this Court deems just and proper.

Respectfully Submitted,

/s/ Matthew Miller  
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Date: October 6, 2023