

JUDGE CASTEL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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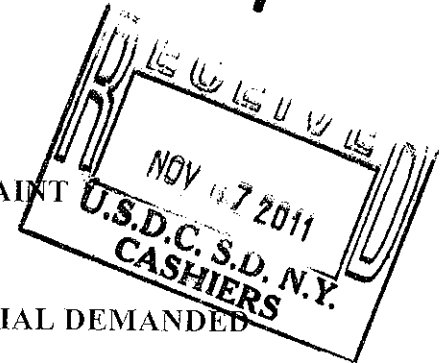
-----X  
COREY LEACH, individually and on behalf of all  
others similarly situated,

Plaintiffs,

-against-

COMPLAINT

JURY TRIAL DEMANDED



ENTERTAINMENT PARTNERS; EPSG MANAGEMENT SERVICES; GEP ADMINISTRATIVE SERVICES; GEP PIXPAY SERVICES, LLC; MARGIN CALL PRODUCTIONS; SWUBTL, LLC; CAST AND CREW; ESSENTIAL PICTURES; HBO FILMS; NBCSTUDIOS INC.; OCCUPANT FILMS; OPEN CITY FILMS; SBK PICTURES, INC.; SCREEN GEMS INC.; THE WEINSTEIN COMPANY; WARNER BROS. ENTERTAINMENT INC.; ZUCKER PRODUCTIONS; AXIUM INTERNATIONAL INC. and JOHN DOES 1 – 20, Defendants being unknown to Plaintiff and having or claiming an interest in the claim herein,

Defendants.

-----X  
Plaintiff, COREY LEACH (“Leach”) on behalf of himself and all others similarly situated, by and through his attorneys, VALLI KANE & VAGNINI, LLP, brings this action for damages and other legal and equitable relief from the Defendants, ENTERTAINMENT PARTNERS, EPSG MANAGEMENT SERVICES, GEP ADMINISTRATIVE SERVICES, GEP PIXPAY SERVICES, LLC, MARGIN CALL PRODUCTIONS, SWUBTL, LLC, CAST AND CREW, ESSENTIAL PICTURES, HBO FILMS, NBCSTUDIOS INC., OCCUPANT FILMS, OPEN CITY FILMS, SBK PICTURES, INC., SCREEN GEMS INC., THE WEINSTEIN COMPANY, WARNER BROS. ENTERTAINMENT INC., ZUCKER PRODUCTIONS, AXIUM INTERNATIONAL INC., and “JOHN DOES” 1 – 20 (“Defendants”) for violations

of the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), the New York State Labor Law, as amended by the Wage Theft Prevention Act (“Labor Law”), and any other cause(s) of action that can be inferred from the facts set forth herein.

### **INTRODUCTION**

1. This is a collective and class action brought by Plaintiff challenging acts committed by Defendants against Plaintiff and those similarly-situated amounting to violations of Federal and State wage and hour laws.
2. Plaintiff also brings this collective and class action on his own behalf and those similarly-situated pursuant to the Federal and State laws requiring overtime pay.
3. Defendants committed violations of these laws by engaging in a systematic scheme of failing to compensate Plaintiff and similarly-situated employees their statutorily required overtime pay.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, which confers original jurisdiction upon this Court for actions arising under the laws of the United States, and pursuant to 28 U.S.C. §§ 1343(3) and 1343(4), which confer original jurisdiction upon this Court in a civil action to recover damages or to secure equitable relief (i) under any Act of Congress providing for the protection of civil rights; (ii) under the Declaratory Judgment Statute, 28 U.S.C. § 2201; (iii) under 29 U.S.C. § 201 *et. seq.*

5. The Court's supplemental jurisdiction is invoked pursuant to 28 U.S.C. § 1367(a), which confers supplemental jurisdiction over all non-federal claims arising from a common nucleus of operative facts such that they form part of the same case or controversy under Article III of the United States Constitution.
6. Venue is proper in this Court pursuant to 29 U.S.C. §§ 201-219, in as much as this judicial district lies in a State in which the unlawful employment practices occurred. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (c), in that Defendants maintain offices, conduct business and reside in this district.

#### PARTIES

7. Plaintiff Leach is a citizen of New York and resides in South Setauket, New York.
8. Upon information and belief, Defendant Entertainment Partners is located at 875 6<sup>th</sup> Avenue, 15<sup>th</sup> Floor, New York, New York 10001. Defendant Entertainment Partners transacted business by employing Plaintiff in New York City during the production of the films Friends with Benefits, I Don't Know How She Does It, Lipstick Jungle, Staten Island, and The Wackness. Upon information and belief, the amount of qualifying annual volume of business for Defendant Entertainment Partners exceeds \$500,000.00, and thus subjects Defendant Entertainment Partners to the FLSA's overtime requirements. Additionally, Defendant Entertainment Partners is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Entertainment Partners to the overtime requirements of the FLSA.
9. Upon information and belief, Defendant EPSG Management Services is located at 875 6th Avenue, 15<sup>th</sup> Floor, New York, New York 10001. Defendant EPSG Management

Services has a principal place of business within New York County, New York. Upon information and belief, the amount of qualifying annual volume of business for Defendant EPSG Management Services exceeds \$500,000.00, and thus subjects Defendant EPSG Management Services, d/b/a Entertainment Partners to the FLSA's overtime requirements. Additionally, Defendant EPSG Management Services is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant EPSG Management Services to the overtime requirements of the FLSA.

10. Upon information and belief, Defendant GEP Administrative Services is located at 2835 North Naomi Street, Burbank, California 91504. Defendant GEP Administrative Services has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the films Friends with Benefits, I Don't Know How She Does It, Lipstick Jungle, Staten Island, and The Wackness. Upon information and belief, the amount of qualifying annual volume of business for Defendant GEP Administrative Services exceeds \$500,000.00, and thus subjects Defendant GEP Administrative Services to the FLSA's overtime requirements. Additionally, Defendant GEP Administrative Services is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant GEP Administrative Services to the overtime requirements of the FLSA.

11. Upon information and belief, Defendant GEP Pixpay Services LLC is located at 2835 North Naomi Street, Burbank, California 91504. Defendant GEP Pixpay Services LLC has a principal place of business within Los Angeles County, California and transacted

business in New York by employing Plaintiff in New York City during the production of the films Friends with Benefits, I Don't Know How She Does It, Lipstick Jungle, Staten Island, and The Wackness. Upon information and belief, the amount of qualifying annual volume of business for Defendant GEP Pixpay Services LLC exceeds \$500,000.00, and thus subjects Defendant GEP Pixpay Services LLC to the FLSA's overtime requirements. Additionally, Defendant GEP Pixpay Services LLC is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant GEP Pixpay Services LLC to the overtime requirements of the FLSA.

12. Upon information and belief, Defendant Margin Call Productions LLC is located at 310 Bowery Street, 2<sup>nd</sup> Floor, New York, New York 10012. Defendant Margin Call Productions LLC has a principal place of business within New York County, New York. Upon information and belief, the amount of qualifying annual volume of business for Defendant Margin Call Productions LLC exceeds \$500,000.00, and thus subjects Defendant Margin Call Productions LLC to the FLSA's overtime requirements. Additionally, Defendant Margin Call Productions LLC is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Margin Call Productions LLC to the overtime requirements of the FLSA.

13. Upon information and belief, Defendant SWUBTL LLC is located at 2835 North Naomi Street, Burbank, California 91504. Defendant SWUBTL LLC, d/b/a Entertainment Partners has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the films Friends with Benefits, I Don't Know How She Does It, Lipstick

Jungle, Staten Island, and The Wackness. Upon information and belief, the amount of qualifying annual volume of business for Defendant SWUBTL LLC exceeds \$500,000.00, and thus subjects Defendant SWUBTL LLC to the FLSA's overtime requirements. Additionally, Defendant SWUBTL LLC is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant SWUBTL LLC to the overtime requirements of the FLSA.

14. Upon information and belief, Defendant Cast and Crew Entertainment Services, is located at 2300 Empire Avenue, 5<sup>th</sup> Floor, in Burbank, California 91504. Defendant Cast and Crew Entertainment Services has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the film Mr. Tambourine Man. Upon information and belief, the amount of qualifying annual volume of business for Defendant Cast and Crew Entertainment Services exceeds \$500,000.00, and thus subjects Defendant Cast and Crew Entertainment Services to the FLSA's overtime requirements. Additionally, Defendant Cast and Crew Entertainment Services is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Cast and Crew Entertainment Services to the overtime requirements of the FLSA.

15. Upon information and belief, Defendant Essential Pictures, is located at 9000 Sunset Boulevard, Suite 600, Los Angeles, California 90069. Defendant Essential Pictures has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of

the Mr. Tambourine. Upon information and belief, the amount of qualifying annual volume of business for Defendant Essential Pictures exceeds \$500,000.00, and thus subjects Defendant Essential Pictures to the FLSA's overtime requirements. Additionally, Defendant Essential Pictures is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Essential Pictures to the overtime requirements of the FLSA.

16. Upon information and belief, Defendant HBO Films, is located at 2500 Broadway, Suite 400, Santa Monica, California 90404. Defendant HBO Films has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the television series The Sopranos. Upon information and belief, the amount of qualifying annual volume of business for Defendant HBO Films exceeds \$500,000.00, and thus subjects Defendant HBO Films to the FLSA's overtime requirements. Additionally, Defendant HBO Films is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant HBO Films to the overtime requirements of the FLSA.

17. Upon information and belief, Defendant NBC Studios Inc., is located at 330 Bob Hope Drive, Burbank, California 91505. Defendant NBC Studios Inc. has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the film Lipstick Jungle. Upon information and belief, the amount of qualifying annual volume of business for Defendant NBC Studios Inc. exceeds \$500,000.00, and thus subjects Defendant NBC Studios Inc. to the FLSA's overtime requirements. Additionally, Defendant NBC Studios

Inc. is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant NBC Studios Inc. to the overtime requirements of the FLSA.

18. Upon information and belief, Defendant Occupant Films, is located at 5225 Wilshire Boulevard, Suite 600, Los Angeles, California 90046. Defendant Occupant Films has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the film The Wackness. Upon information and belief, the amount of qualifying annual volume of business for Defendant Occupant Films exceeds \$500,000.00, and thus subjects Defendant Occupant Films to the FLSA's overtime requirements. Additionally, Defendant Occupant Films is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Occupant Films to the overtime requirements of the FLSA.

19. Upon information and belief, Defendant Open City Films is located at 122 Hudson Street, 5<sup>th</sup> Floor, New York, New York 10013. Defendant Open City Films has a principal place of business within New York County, New York. Upon information and belief, the amount of qualifying annual volume of business for Defendant Open City Films exceeds \$500,000.00, and thus subjects Defendant Open City Films to the FLSA's overtime requirements. Additionally, Defendant Open City Films is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Open City Films to the overtime requirements of the FLSA.

20. Upon information and belief, Defendant SBK Pictures, Inc. is located at 324 Highland Lane, Bryn Mawr, Pennsylvania 19010. Defendant SBK Pictures, Inc. has a principal place of business within Montgomery County, Pennsylvania and transacted business in New York by employing Plaintiff in New York City during the production of the film The Wackness. Upon information and belief, the amount of qualifying annual volume of business for Defendant SBK Pictures, Inc. exceeds \$500,000.00, and thus subjects Defendant SBK Pictures, Inc. to the FLSA's overtime requirements. Additionally, Defendant SBK Pictures, Inc. is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant SBK Pictures, Inc. to the overtime requirements of the FLSA.

21. Upon information and belief, Defendant Screen Gems Inc. is located at 10202 West Washington Boulevard, Culver City, California 90232. Defendant Screen Gems Inc. has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the film Friends with Benefits. Upon information and belief, the amount of qualifying annual volume of business for Defendant Screen Gems Inc. exceeds \$500,000.00, and thus subjects Defendant Screen Gems Inc. to the FLSA's overtime requirements. Additionally, Defendant Screen Gems Inc. is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Screen Gems Inc. to the overtime requirements of the FLSA.

22. Upon information and belief, Defendant The Weinstein Company is located at 375 Greenwich Street, #A, New York, New York 10013. Defendant The Weinstein Company has a principal place of business within New York County, New York. Upon information

and belief, the amount of qualifying annual volume of business for Defendant The Weinstein Company exceeds \$500,000.00, and thus subjects Defendant The Weinstein Company to the FLSA's overtime requirements. Additionally, Defendant The Weinstein Company is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects The Weinstein Company to the overtime requirements of the FLSA.

23. Upon information and belief, Defendant Warner Bros. Entertainment Inc., is located at 400 Warner Boulevard, Burbank, California 91522. Defendant Warner Bros. Entertainment Inc. has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the film Friends with Benefits. Upon information and belief, the amount of qualifying annual volume of business for Defendant Warner Bros. Entertainment Inc. exceeds \$500,000.00, and thus subjects Defendant Warner Bros. Entertainment Inc. to the FLSA's overtime requirements. Additionally, Defendant Warner Bros. Entertainment Inc. is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Warner Bros. Entertainment Inc. to the overtime requirements of the FLSA.

24. Upon information and belief, Defendant Zucker Productions, is located at 1250 Sixth Street, STE 201, Santa Monica, California 90401. Defendant Zucker Productions has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York City during the production of the film Friends with Benefits. Upon information and belief, the amount of qualifying annual volume of business for Defendant Zucker Productions exceeds \$500,000.00, and

thus subjects Defendant Zucker Productions to the FLSA's overtime requirements. Additionally, Defendant Zucker Productions is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Zucker Productions to the overtime requirements of the FLSA.

25. Upon information and belief, Defendant Axium International Inc., is located at 5800 Wilshire Boulevard, Los Angeles, California 90036. Defendant Axium International Inc. has a principal place of business within Los Angeles County, California and transacted business in New York by employing Plaintiff in New York during during the production of the television series The Sopranos. Upon information and belief, the amount of qualifying annual volume of business for Defendant Axium International Inc. exceeds \$500,000.00, and thus subjects Defendant Axium International Inc. to the FLSA's overtime requirements. Additionally, Defendant Axium International Inc. is engaged in interstate commerce as they all handle goods that have been moved in interstate commerce. This independently subjects Defendant Axium International Inc. to the overtime requirements of the FLSA.

26. "JOHN DOES" are 1 – 20 individual defendants being unknown to Plaintiff, having or claiming an interest herein. Upon information and belief, "JOHN DOES" 1 – 20 has the power to hire and fire employees, supervise and control employees work schedules and conditions of employment, determine employee's rate and method of payment, and maintain employment records. JOHN DOES 1 – 20 thus qualify as employers under the FLSA and NYLL and thus are personally liable for unpaid wages and violations pursuant to the above referenced statutes.

## COLLECTIVE ACTION ALLEGATIONS

27. Plaintiff seeks to bring this suit pursuant to 29 U.S.C. § 216(b) on his own behalf as well as those in the following class:

Current and former employees of Defendants who perform any work in any of Defendants' locations who are otherwise non-exempt employees who give consent to file a cause of action to recover overtime compensation which is legally due them for the time worked in excess of forty (40) hours in a given work week as well as to recover the difference between the amount of wages actually paid to them and the statutorily minimum amount due ("FLSA Plaintiffs").

28. Plaintiff is similarly situated to all such individuals because while employed by Defendants they and all FLSA Plaintiffs performed similar tasks, were subject to the same laws and regulations, were paid in the same or similar manner, were paid the same or similar rate, were required to work in excess of forty (40) hours per work-week, and were not paid the required one and a half (1 ½) times their respective regular rates of pay for overtime worked.

29. Defendants treated all FLSA Plaintiffs similarly in requiring them to work in excess of forty (40) hours per work week without adequate overtime compensation. Plaintiff and FLSA Plaintiffs work and/or worked for Defendants in their place of business four (4) to six (6) days per week for an average total ranging from sixty (60) to ninety (90) hours per week, if not more. They were regularly and specifically scheduled to work more than forty (40) hours per work week, yet Defendants did not pay them the statutorily required overtime compensation. This practice was enforced against all employees in similar or identical fashion.

30. Plaintiff and FLSA Plaintiffs were subjected to a payment practice that willfully disregarded the compensation requirements set forth under the FLSA. At each filming location, the location manager, parking coordinator and accountant negotiated a flat rate of pay per shift based on what the production companies (“Defendants”) desired. The production companies, who are in charge of the funding for the films and projects, are providing the payroll companies (“Defendants”) with the agreed upon rate of payment. The payroll companies (“Defendants”) are then issuing the checks to the Plaintiff and FLSA Plaintiffs. Plaintiff and FLSA Plaintiffs have no say in how much they are paid. Neither Plaintiff, nor any FLSA Plaintiffs, received the statutorily prescribed overtime rate of pay for time worked over the forty (40) hour mark.
31. Plaintiff is not exempt from overtime pay. To be exempt from overtime compensation, the employee must be paid at least \$23,600 per year (\$455 per week), be on a salary basis, and perform exempt job duties. Plaintiff’s salary did not reach this required amount and therefore is not exempt from overtime pay pursuant to the FLSA.
32. Defendants are and have been aware of the requirement to pay Plaintiff and FLSA Plaintiffs for overtime work, yet purposefully chose not to.

### **RULE 23 CLASS ALLEGATIONS**

33. Plaintiff additionally seeks to maintain this action as a class action, pursuant to Fed. R. Civ. P. 23(b)(3), on his own behalf as well as those who are similarly situated, who, during the previous six years, were subjected to violations of the New York Labor Law.
34. Under F.R.C.P. 23(b)(3) Plaintiff must plead that the class:
- a. Is so numerous that joinder is impracticable;

- b. There are questions of law or fact common to the class which predominate any individual questions of law or fact;
- c. Claims or defenses of the representative are typical of the class;
- d. The representative will fairly and adequately protect the class; and,
- e. A class action is superior to other methods of adjudication.

35. The Class which Plaintiff seek to define includes:

All similarly situated persons employed by Defendants to perform any work in any of Defendants' locations in any capacity during the statutory period within the State of New York who (1) worked in excess of 40 hours per week and were not compensated with overtime pay; and/or (2) were not compensated at the statutory rate for overtime pay; and/or (3) worked 10 hours or more in a given day without proper compensation. ("Class Plaintiffs").

#### Numerosity

36. Upon information and belief, during the previous six (6) years, Defendants have, in total, employed well in excess of 50 employees in order to staff their filming locations throughout the United States.

#### Common Questions of Law and/or Fact

37. There are questions of law/fact that govern over the claims which are available to each and every Class Plaintiff, including but not limited to the following:

- a. Whether Class Plaintiffs were compensated at a rate less than the statutorily required minimum hourly rate of pay;
- b. Whether Class Plaintiffs were scheduled to work and/or required to work in shifts of approximately twelve (12) hours per day, four (4) to six (6) days per week;
- c. Whether Class Plaintiffs were compensated for overtime pay pursuant to Defendants' policies;

- d. Whether Defendants failed to pay Class Plaintiffs for the hours worked in excess of forty (40) hours;
- e. Whether Defendants failed to pay Class Plaintiffs at a higher rate of pay when worked in excess of ten (10) hours per day;
- f. Whether Defendants kept accurate records of hours worked by Class Plaintiffs; and,
- g. Whether Defendants have any affirmative defenses for any of these claims.

Typicality of Claims and/or Defenses

38. Defendants employed Plaintiff Leach in the same capacity as all of Defendant's Parking Production Assistants. All of Defendant's Parking Production Assistants were treated the same or similarly by management with respect to pay or lack thereof. Thus, there are common questions of law and fact which are applicable to each and every one of Defendants' employees.
39. This treatment included, but was not limited to, failure to pay employees the proper overtime wages, failure to compensate employees in accordance with the statutorily prescribed minimum rate of pay, and failure to compensate employees at an increased rate pursuant to New York Labor Law Spread of Hours law.

Adequacy

40. The representative party is not currently employed with Defendants. Plaintiff has kept substantial records from his time working for Defendants and would properly and adequately represent the current and former employees who have been subjected to the treatment alleged herein. Additionally, Plaintiffs' attorneys have substantial experience in this field of law.

### Superiority

41. Any lawsuit brought by an employee of Defendants 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. Plaintiff has no facts relating to the class claims that are atypical from those of the class. Indeed, upon information and belief, Plaintiff was treated identically to other employees.
42. Indeed, because Plaintiff is no longer employed by Defendants he will be able to further represent Class Plaintiffs by acting without fear of further retaliation and harassment. Thus, this means of protecting all of Class Plaintiffs' rights is superior to any other method.

### FACTS

43. Defendants are engaged in the practice of producing movies and televisions shows. All Defendants were aware of their payroll practice and were consciously disregarding the requirements under the FLSA and New York Labor Law.
44. Defendants paid Plaintiff and those similarly situated with a daily rate for their services, a shift rate of pay. This amount in pay did not accurately reflect an hourly wage or compensate Plaintiff correctly in accordance to the FLSA and New York Labor Law.
45. Although each Defendant was not present at each different job location, all of the practices are uniform amongst the Defendants. The production companies determined a rate of pay per shift applicable to Plaintiff and then negotiated with the payroll companies on the process of payment. Plaintiff never had any influence or say when determining his rate of pay. All Defendants were knowingly and willfully paying Plaintiff and those

similarly situated a shift-rate rather than an hourly rate which deprived them of statutorily mandated overtime and spread of hours pay.

46. Upon information and belief, Plaintiff and Class Plaintiffs have been treated similarly throughout their employment with Defendants at their various locations. Plaintiff and Class Plaintiffs were compensated less than statutorily required and worked over forty (40) hours per week, in twelve (12) hour shifts, in excess of sixty (60) hours per work week.

47. In order to hide the fact that Plaintiff was being paid less than statutorily required, Defendants falsely and incorrectly stated the numbers of hours worked on Plaintiff's paychecks. Defendants did not take into account the fact that Plaintiff's shifts were twelve (12) hours in length when computing his hours worked per week. This was all done on the Defendant's part as an effort to withhold from Plaintiff his deserved compensation.

48. Furthermore, neither Plaintiff nor any Class Plaintiff is exempt from overtime pay as acknowledged by Defendant's attempt to falsify overtime rates on their paychecks. Plaintiff was not paid in excess of \$23,600 per year (\$455 per week) and therefore is not exempt from overtime compensation. FLSA and Class Plaintiffs' overtime rate of pay is not in excess of one and one-half times computed hourly rate, and Class Plaintiffs did not receive spread of hours pay.

49. This falsification further evidences Defendant's knowing and willful violation of the law.

**Plaintiff Corey Leach**

50. Plaintiff worked for each of the named Defendants from in or around 2007 to March 2011. Plaintiff was hired as a Parking Production Assistant, whose job responsibilities

were similar, if not identical, for each of the Defendants during this time. Plaintiff was informed he would be paid \$125 to \$130 per twelve (12) hour shift. Plaintiff was also informed that he would be responsible for determining how many shifts he desired to work per week. At times, Plaintiff worked for a full twenty-four (24) hour period, which comprised two shifts. Plaintiff would often work between ninety (90) to one-hundred and ten (110) hours per week. Plaintiff was not paid overtime for hours worked in excess of forty (40) hours per week. Likewise, Plaintiff was not paid spread of hours pay for working in excess of ten (10) hours per day, which occurred every time Plaintiff worked since his shifts were twelve (12) hours in length. Plaintiff was paid a flat shift rate of \$125 or \$130 per twelve (12) hour shift. This shift rate did not take into account overtime or spread of hours pay. Plaintiff's compensation was provided for by the production companies ("Defendants") who provided the amounts to the payroll companies ("Defendants"). These Defendants are working together in regards to compensating Plaintiff for his time worked.

51. Plaintiff's work duties included arriving at the filming location 24 hours in advance of filming and securing the location. Plaintiff was required to keep the area clear of pedestrians and motorists by either placing cones or parking company vehicles in areas that would block both foot and vehicle traffic. Plaintiff was also responsible to safeguard the production vehicles and equipment while they were on set. Plaintiff was unable to leave the location for food and was not provided compensation for either lunch or dinner, although dinner is provided for other employees of the Defendants.
52. Plaintiff Leach, throughout his tenure of employment, was a full-time employee of Defendants and was paid by check on a bi-weekly basis. Plaintiff Leach was paid a shift-

rate of \$125 to \$130 per twelve (12) hour shift. No hourly rate was given or identified to Plaintiff by Defendants.

53. Throughout Plaintiff Leach's entire tenure of employment with Defendants, Plaintiff was required to work, and did in fact work four (4) to six (6), at times, seven (7) days per week. Plaintiff was assigned to work twelve (12) hour shifts, which began Sunday evening and concluded either late Friday evening or early Saturday morning. Many times, Plaintiff would work a double, and was required to be at work for a full twenty-four (24) hour period. Plaintiff Leach was not given a break. Throughout his tenure of employment with Defendants, Plaintiff worked an average between sixty (60) to ninety (90) hours per week. At certain times, Plaintiff worked more than one hundred (100) hours per week.

54. This amount of time that Plaintiff Leach was required to work correlated with Defendants' production and filming time. Although these hours fluctuated per location, they required Plaintiff to be present at work in excess of forty (40) hours per week. Plaintiff was required to be working during all hours in which Defendants were present on a location, including during inclement weather and when the set was shut down for any reason.

55. Plaintiff Leach, when working in excess of forty (40) hours per week, was compensated at his straight shift rate of pay.

56. Plaintiff Leach was required to work in excess of ten (10) hours per day without proper compensation under New York Labor Law's Spread of Hours Law.

57. Plaintiff is not exempt from pay as required by the FLSA and New York Law. This is evidenced by Defendant's own paychecks that falsify the overtime rate.

58. Plaintiff does not fit into any of the categories of exempt employees under the FLSA and is therefore entitled to an overtime rate of pay. Although Plaintiff is paid more than \$455 dollars per week, he is not a salaried employee and his employment responsibilities do not include duties exempt under the FLSA. Because Plaintiff has not satisfied the three requirements of an exempt employee, he is a non-exempt employee under the FLSA.

**AND AS FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS ON BEHALF  
OF PLAINTIFFS AND ALL COLLECTIVE PLAINTIFFS**

**For Violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201-219**

59. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.

60. Plaintiff and all FLSA Plaintiffs were required to work in excess of forty (40) hours a week without being compensated for those hours at the statutorily required time and a half pay. This practice was willful and lasted for the duration of the relevant time periods.

61. This practice is in violation of the Fair Labor Standards Act.

**AND AS FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS ON  
BEHALF OF PLAINTIFFS AND ALL CLASS PLAINTIFFS**

**For Violation of the New York Labor Law §§ 650 et. seq.**

62. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.

63. Plaintiff and all Class Plaintiffs were required to work in excess of forty (40) hours a week without being compensated for those hours at the statutorily required time and a

half pay. This practice was willful and lasted for the duration of the relevant time periods.

64. This practice is in violation of the New York Labor Law §§ 650 et. seq.

**AND AS FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS ON BEHALF OF PLAINTIFFS AND ALL CLASS PLAINTIFFS**

**For violation of 12 NYCRR § 142-2.4**

65. Plaintiff and all Class Plaintiffs were required to work shifts in excess of ten hours on a regular basis. Plaintiffs and Class Plaintiffs were not paid the statutorily required “spread of hours” pay, which would have required an additional hour of pay for each day Plaintiffs and all Class Plaintiffs worked.

66. This practice is in violation of 12 NYCRR § 142.24.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of himself and all FLSA and Class Plaintiffs, demand judgment against Defendants as follows:

1. Demand a jury trial on these issues to determine liability and damages;
2. Preliminary and permanent injunctions against Defendants and their officers, owners, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs, and usages set forth herein;
3. A judgment declaring that the practices complained of herein are unlawful and in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, (“FLSA”), the New York Labor Law, §§ 650 et. seq.; the New York “spread of hours” pay required under 12 N.Y.C.R.R. §

142-2.4 and the Wage Theft Prevention Act, § 195 of the New York Labor Law as amended in April 2011.

4. All damages which Plaintiff and the FLSA and Class Plaintiffs have sustained as a result of Defendants' conduct, including back pay, liquidated damages, front pay, general and special damages for lost compensation and job benefits they would have received but for Defendants' improper practices;

5. An award to the Plaintiff and FLSA and Class Plaintiffs of pre-judgment interest at the highest level rate, from and after the date of service of the initial complaint in this action on all unpaid wages from the date such wages were earned and due;

6. An award to the Plaintiff and FLSA and Class Plaintiffs for the amount of unpaid wages, including interest thereon, and penalties subject to proof;

7. Awarding Plaintiff their costs and disbursements incurred in connection with this action, including reasonable attorneys' fees, expert witness fees, and other costs;

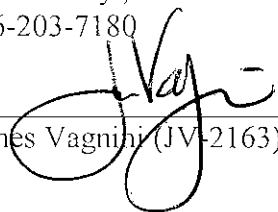
8. Pre-judgment and post-judgment interest, as provided by law; and

9. Granting Plaintiff and FLSA and Class Plaintiffs other and further relief as this Court finds necessary and proper.

Dated: November 4, 2011  
Garden City, New York

Respectfully Submitted,

VALLI KANE & VAGNINI, LLP  
600 Old Country Road, Suite 519  
Garden City, New York 11530  
516-203-7180

  
James Vagnini (JV-2163)