

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

Teresa Johnson,
on behalf of herself and other persons similarly situated

Plaintiff,

v.

Academy Mortgage Corporation,
a Colorado corporation,

Defendant.

COMPLAINT

COMES NOW the Plaintiff, Teresa Johnson, by and through counsel, CORNISH & DELL'OLIO, and for her Complaint against the Defendant, states as follows:

Introduction

1. This is an action for unpaid wages brought pursuant to the federal Fair Labor Standards Act (29 U.S.C. § 201 *et. seq.*).
2. Plaintiff will move the Court for leave to send notice to the class and to pursue the action under authority of 29 U.S.C. § 216 (b) as a collective action.

Jurisdiction

3. The Court has jurisdiction of this action pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367.

Others are Similarly Situated

4. Plaintiffs seek to certify a collective class action under the Fair Labor Standards Act, 29 U.S.C. § 216(b).

5. Plaintiffs seek to certify a class of similarly situated employees composed of “all current and former salaried employees of Academy Mortgage Corporation, who were employed as underwriters, after May 19, 2008, and who worked more than 40 hours in a single work week and were not paid overtime.”

6. The Plaintiff, and those similarly situated, were affected by a common compensation policy, plan or decision which was made by Academy Mortgage Corporation’s corporate management. Specifically a decision, plan or policy to classify underwriters as exempt, to pay them on a salaried basis and to not pay them one-and-one-half times their regular rate for hours worked over forty in a single work week.

7. Plaintiff, and all those similarly situated, as underwriters for Academy Mortgage Corporation, performed the same job duties. All underwriters applied the same policies and standards to loan applications. Access to those policies and standards, located at www.allregs.com was provided to Plaintiff, and those similarly situated, by Academy Mortgage Corporation. Plaintiff, and those similarly situated, were also provided with and instructed to apply customer “overlays” to mortgage loan applications.

8. Plaintiff, and all those similarly situated, as underwriters for Academy Mortgage Corporation, shared the same job title and were subject to the same compensation policies, classification as exempt, paid on a salaried basis and not paid one-and-one-

half times their regular rate of pay for all hours worked over forty in a single work week.

Parties

9. Teresa Johnson is a natural person who resides in Colorado.

10. Teresa Johnson was employed by Academy Mortgage as an underwriter from June 22, 2009 until March 31, 2011.

11. Academy Mortgage Corporation is a Utah corporation authorized to do business in the State of Colorado.

12. Academy Mortgage Corporation operates mortgage lending stores in 23 states¹. It operates stores at seven locations in Colorado.

13. At all times relevant to the Complaint the Defendant corporation was engaged in the business of originating and selling loans in Colorado and 22 other states.

14. At all times relevant to the Complaint the Defendant corporation was an enterprise engaged in commerce within the meaning of the federal Fair Labor Standards Act (29 U.S.C. § 203 (s)(1)) with gross sales of more than \$500,000.00 per year.

Venue

15. A substantial part of the events giving rise to the claims occurred in the District of Colorado.

16. Academy Mortgage Corporation resides in Colorado within the meaning of 29

¹ Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Maine, Maryland, Montana, Nevada, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Utah, and Washington.

U.S.C. § 1391.

**First Cause of Action
(for violations of the federal Fair Labor Standards Act 29 U.S.C. § 207)**

17. Paragraphs 1 through 16 are incorporated herein by reference.
18. Plaintiff, and those similarly situated, were at all times relevant to the Complaint nonexempt employees under the federal Fair Labor Standards Act (29 U.S.C. § 201 *et. seq.*).
19. Plaintiff, and those similarly situated, were employed as underwriters by Academy Mortgage Corporation. Their primary duty consisted of evaluating loan applications and other information received from potential borrowers by applying the policies, procedures, standards and manuals of Academy Mortgage Corporation and overlays of third parties to loan applications.
20. Plaintiff, and those similarly situated, performed work that was not related to setting policies or the general business operations of Academy Mortgage Corporation but rather performed work related to the “production” of loans.
21. Plaintiff, and those similarly situated, were improperly classified by Academy Mortgage Corporation as exempt and treated as exempt employees and were not paid overtime compensation although each worked more than 40 hours in a single work week.
22. The Defendant corporation failed to pay the Plaintiffs, and those similarly situated, for all hours worked in excess of forty in a single work week at one-and-one-half times her regular hourly rate of pay.

23. The Defendant corporation's failure to pay the Plaintiffs, and those similarly situated, overtime compensation was in violation of the federal Fair Labor Standards Act (29 U.S.C. § 207).

24. The Defendant corporation's violations of the federal Fair Labor Standards Act were willful.

Prayer for Relief

WHEREFORE, Plaintiff demands judgment against the Defendant corporation in an amount which will compensate Plaintiffs, and those similarly situated, for all hours worked in excess of forty hours in a single work week at one-and-one-half times each employee's regular hourly rate of pay, for liquidated damages as provided for by 29 U.S.C. 216 (b), and attorney's fees and costs as provided for by 29 U.S.C. 216 (b) and such other relief as the Court deems appropriate.

Respectfully submitted this 19th day of May, 2011.

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