

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

TIFFANY HILL, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

XEROX CORPORATION, a New York
Corporation, LIVEBRIDGE, INC., an Oregon
Corporation, AFFILIATED COMPUTER
SERVICES, INC., a Delaware Corporation,
AFFILIATED COMPUTER SERVICES, LLC,
a Delaware Limited Liability Company,

Defendants.

NO.

CLASS ACTION COMPLAINT

Plaintiff Tiffany Hill, by her undersigned attorneys, for this class action complaint against Defendants Xerox Corporation, LiveBridge, Inc., Affiliated Computers Services, Inc., and Affiliated Computers Services, LLC (collectively “ACS” or “Defendants”), alleges as follows:

I. INTRODUCTION

1.1 Nature of Action. Plaintiff Tiffany Hill brings this action against Defendants for engaging in a systematic scheme of wage and hour abuse against call center employees in the State of Washington. This scheme has involved, among other things, requiring or permitting employees to work off the clock and failing to pay employees for overtime work.

II. JURISDICTION AND VENUE

1
2 2.1 Jurisdiction. Defendants are within the jurisdiction of this Court. This Court
3 has jurisdiction over this case under 28 U.S.C. § 1332(d)(2) in that: (1) this is a class action
4 with more than one hundred (100) class members; (2) Defendant Xerox Corporation (“Xerox”)
5 is a citizen of the state of New York; Defendant Affiliated Computer Services, Inc. is a citizen
6 of the state of Delaware; Defendant Affiliated Computer Services, LLC is a citizen of the state
7 of Delaware; and Defendant Livebridge, Inc. (“Livebridge”) is a citizen of the state of Oregon;
8 (3) Plaintiff is a resident of the state of Washington; and (4) upon information and belief, the
9 matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.

10 2.2 Venue. Venue of this case in this Court is proper: (1) pursuant to 28 U.S.C. §
11 1391(a)(1) in that Defendants do sufficient business in this District to subject them to personal
12 jurisdiction herein; and (2) pursuant to 28 U.S.C. § 1391(a)(2) in that a substantial part of the
13 events or omissions giving rise to the claim occurred in this District.

14 2.3 Governing Law. The claims of Plaintiff and the Class members asserted in this
15 class action complaint are brought solely under state law causes of action and are governed
16 exclusively by Washington law. The claims of Plaintiff and the Class members are individual
17 claims and do not unite or enforce a single title or right to which Plaintiff and the Class have a
18 common and undivided interest.

III. PARTIES

19 3.1 Plaintiff Tiffany Hill. Plaintiff Hill is a citizen of Washington State. Plaintiff
20 Hill responded to an ACS internet job posting and was hired by ACS as a non-exempt customer
21 care assistant in September 2011. Plaintiff Hill was employed by ACS as a customer care
22 assistant in one of Defendants’ call centers in Federal Way, Washington from September 2011
23 to April 2012. ACS required Plaintiff Hill to perform unpaid work off-the-clock before and
24 after her scheduled shift. ACS failed to pay Plaintiff Hill for all hours worked, including
25 overtime hours. ACS terminated Plaintiff Hill on April 6, 2012 and willfully failed to pay the
26 wages due to her.

1 3.2 Defendant Xerox Corporation. Xerox is a New York Corporation with its
2 headquarters in Connecticut. Xerox Corporation is licensed to do business in Washington and
3 conducts business in Washington. Xerox Corporation has employed thousands of employees in
4 Washington, including Plaintiff and the proposed Class members. On information and belief,
5 Xerox is the parent company or affiliate of co-Defendants Livebridge, Affiliated Computer
6 Services, Inc., and Affiliated Computer Services, LLC, and Xerox has exercised control over
7 Livebridge and the Affiliated Computer Services companies since it purchased them in 2010.

8 3.3 Defendant Livebridge, Inc. Livebridge is an Oregon corporation with its
9 headquarters in Texas. On information and belief, Livebridge is the subsidiary company or
10 affiliate of co-Defendant Xerox. Livebridge is licensed to do business in Washington and
11 conducts business in Washington. On information and belief, Livebridge has employed
12 thousands of employees in Washington, including Plaintiff and the proposed Class members.

13 3.4 Defendant Affiliated Computer Services, Inc. Affiliated Computer Services,
14 Inc. is a Delaware corporation with its headquarters in Texas. On information and belief,
15 Affiliated Computer Services, Inc. is the subsidiary of co-Defendant Xerox and was acquired
16 by Xerox in 2010. Affiliated Computer Services, Inc. is licensed to do business in Washington
17 and has conducted business in Washington. On information and belief, Affiliated Computer
18 Services, Inc. has employed thousands of employees in Washington, including Plaintiff and the
19 proposed Class members.

20 3.5 Defendant Affiliated Computer Services, LLC. Affiliated Computer Services,
21 LLC is a Delaware limited liability company with its headquarters in Texas. On information
22 and belief, Affiliated Computer Services, LLC is the subsidiary of co-Defendant Xerox.
23 Affiliated Computer Services, LLC became licensed to do business in Washington on January
24 19, 2010 and on information and belief, has conducted business in Washington. On
25 information and belief, Affiliated Computer Services, LLC employs thousands of employees in
26 Washington, including the proposed Class members.

1 of all members is impracticable. Moreover, the disposition of the claims of the Class in a
2 single action will provide substantial benefits to all parties and the Court.

3 4.3 Commonality. There are numerous questions of law and fact common to
4 Plaintiff and Class members. These questions include, but are not limited to, the following:

5 a. Whether ACS has engaged in a common course of failing to properly
6 compensate call center customer service employees for all hours worked, including overtime;

7 b. Whether ACS has engaged in a common course of requiring or
8 permitting call center customer service employees to work off the clock without compensation;

9 c. Whether ACS has engaged in a common course of requiring or
10 permitting call center customer service employees not to report all hours worked;

11 d. Whether ACS has engaged in a common course of failing to maintain
12 true and accurate time records for all hours worked by call center customer service employees;

13 e. Whether ACS has violated RCW 49.46.130;

14 f. Whether ACS has violated RCW 49.46.090;

15 g. Whether ACS has violated RCW 49.48.010;

16 h. Whether ACS has violated RCW 49.52.050;

17 i. Whether ACS has violated the Washington Consumer Protection Act,
18 RCW 19.86.010 – .920; and

19 j. The nature and extent of class-wide injury and the measure of
20 compensation for such injury.

21 4.4 Typicality. The claims of the Plaintiff Hill are typical of the claims of the Class.
22 Plaintiff Hill was employed in Washington by ACS as a call center Customer Care Assistant
23 and thus is a member of the proposed Class. Plaintiff Hill's claims, like the claims of the Class,
24 arise out of the same common course of conduct by ACS and are based on the same legal and
25 remedial theories.

1 these facilities, ACS provides “customer care” services to companies such as Verizon Wireless
2 and employs thousands of customer service employees to field phone calls for such companies.
3 ACS pays its call center customer service employees based on a hybrid model that combines an
4 hourly rate with complicated piece rates (the “ABC” compensation system). ACS’s
5 compensation system results in employees performing unpaid work off-the-clock. ACS fails to
6 record and track all regular and overtime hours by call center customer service employees. On
7 information and belief, instead of recording and tracking all regular and overtime hours
8 worked, ACS only records and tracks the time in which call center customer service employees
9 are logged into ACS’s phone system and taking calls or in special training sessions. ACS
10 requires call center customer service employees to perform uncompensated, off-the-clock work
11 when the employees are not logged into the ACS phone system. ACS also fails to pay
12 employees for all overtime work.

13 5.2 Off-the-Clock Work. ACS’s common course of wage and hour abuse includes
14 routinely failing to compensate call center customer service employees for off-the-clock work.
15 As a result of this off-the-clock work, ACS’s call center customer service employees are
16 deprived of straight-time and overtime wages. ACS has had actual or constructive knowledge
17 of the fact that call center employees are not being compensated for off-the-clock work.

18 a. Pre-Shift Work. During the applicable statute of limitations period, ACS
19 required Plaintiff Hill and proposed Class members to perform unpaid, pre-shift work,
20 including but not limited to finding an open computer terminal, starting the computer system by
21 entering a username and password, opening multiple programs required for their work—
22 including but not limited to the customer call database, the employee “notepad” program, the
23 “Doorways” program, the phone call “timer,” the IEX schedule, the department phone number
24 spreadsheet for call transfers, and the ACSS customer database—and waiting for all necessary
25 programs to load, all before officially logging on to the phone system to “start” their scheduled
26 shift. The time for which ACS call center employees are paid begins only when they log on to

1 their phone systems, which they are not allowed to do until their scheduled shift start time.
2 Plaintiff Hill and proposed Class members are not paid for work performed before logging on
3 to the phone system. During training, ACS emphasizes to call center employees that they must
4 arrive at work 15 minutes prior to their scheduled shift time in order to find a computer
5 terminal, activate the computer, open required programs, and perform other tasks before
6 logging on to the phone system (and thus starting the time clock) and taking their first call.
7 ACS pays call center customer service employees only for the time they are logged on to the
8 phone system, which normally corresponds with the scheduled shift time, not the time they are
9 actually working. In fact, employees are not permitted to log on to the phone system and start
10 the time clock until they have completed all of their pre-log-on work. But if Plaintiff Hill and
11 proposed Class members are not logged on to the phone system and taking their first call at
12 their scheduled start time, they receive “points” which lead to discipline, up to and including
13 termination. On information and belief, Plaintiff Hill and proposed Class members spend
14 approximately 15 minutes per day working on pre-shift activities alone. The preliminary
15 activities are necessary for Plaintiff Hill and proposed Class members to perform their principal
16 work activities and are part of ACS’s ordinary course of business.

17 b. Post-Shift Work. During the applicable statute of limitations period, ACS
18 required Plaintiff Hill and proposed Class members to perform unpaid work after logging out of
19 the phone system (i.e., clocking out). After logging out of the phone system and “ending” their
20 scheduled shifts, Plaintiff Hill and proposed Class members were required to close several
21 programs on their computers and sign out of the computers. During training, ACS emphasizes
22 to call center employees that they must log out of their phone system (i.e., clock out) before
23 closing any open programs on their computers. The computer programs that call center
24 customer service employees must close after “clocking out” can include but are not limited to
25 the customer call database, the employee “notepad” program, the “Doorways” program, the
26 phone call “timer,” the IEX schedule, the department phone number spreadsheet for call

1 determined by dividing the amount of compensation received per week by the total number of
2 hours worked during that week. The employee is entitled to one and one-half times the regular
3 rate arrived at for all hours worked in excess of forty per week.”

4 6.5 By the actions alleged above, ACS has violated the provisions of
5 RCW 49.46.130.

6 6.6 As a result of the unlawful acts of Defendants, Plaintiff Hill and the Class have
7 been deprived of compensation in amounts to be determined at trial and pursuant to
8 RCW 49.46.090, Plaintiff Hill and the Class are entitled to recovery of such damages, including
9 interest thereon, as well as attorneys’ fees and costs.

10 **VII. SECOND CLAIM FOR RELIEF**
11 **(Violations of RCW 49.48.010 – Failure to Pay Wages Owed at Termination)**

12 7.1 Plaintiff Hill realleges and incorporates by reference each and every allegation
13 set forth in the preceding paragraphs.

14 7.2 RCW 49.48.010 provides that “[w]hen any employee shall cease to work for an
15 employer, whether by discharge or by voluntary withdrawal, the wages due him on account of
16 his employment shall be paid to him at the end of the established pay period.”

17 7.3 By the actions alleged above, Defendants have violated the provisions of RCW
18 49.48.010.

19 7.4 As a result of Defendants’ unlawful acts, Plaintiff Hill and the Class have been
20 deprived of compensation in amounts to be determined at trial and, are entitled to such
21 damages, including interest thereon, and pursuant to RCW 49.48.030, Plaintiff Hill and Class
22 members are entitled to payment of attorneys’ fees as well.

23 **VIII. THIRD CLAIM FOR RELIEF**
24 **(Violation of RCW 49.52.050 — Willful Refusal to Pay Wages)**

25 8.1 Plaintiff Hill realleges and incorporates by reference each and every allegation
26 set forth in the preceding paragraphs.

1 8.2 RCW 49.52.050 provides that any employer or agent of any employer who,
2 “[w]ilfully and with intent to deprive the employee of any party of his wages, shall pay any
3 employee a lower wage than the wage such employer is obligated to pay such employee by any
4 statute, ordinance, or contract” shall be guilty of a misdemeanor.

5 8.3 Violations of RCW 49.46.130, as discussed above, constitute violations of
6 RCW 49.52.050.

7 8.4 Violations of RCW 49.48.010, as discussed above, constitute violations of RCW
8 49.52.050.

9 8.5 RCW 49.52.070 provides that any employer who violates the provisions of
10 RCW 49.52.050 shall be liable in a civil action for twice the amount of wages withheld,
11 attorneys’ fees, and costs.

12 8.6 By the actions alleged above, Defendants have violated the provisions of
13 RCW 49.52.050.

14 8.7 As a result of the willful, unlawful acts of Defendants, Plaintiff Hill and the
15 Class have been deprived of compensation in amounts to be determined at trial and pursuant to
16 RCW 49.52.070, Plaintiff Hill and the Class are entitled to recovery of twice such damages,
17 including interest thereon, as well as attorneys’ fees and costs.

18 **IX. FOURTH CLAIM FOR RELIEF**

19 **(Violations of Washington’s Consumer Protection Act – RCW 19.86)**

20 9.1 Plaintiff Hill realleges and incorporates by reference each and every allegation
21 set forth in the preceding paragraphs.

22 9.2 ACS has engaged in unfair or deceptive acts or practices by engaging in the
23 following courses of conduct: (i) failing to record and pay employees for straight time and
24 overtime; (ii) requiring or permitting employees to work off the clock; (iii) violating
25 RCW 49.46.130; (iv) violating RCW 49.46.090; (v) violating RCW 49.52.050; and (vi)
26 violating RCW 49.48.010.

1 9.3 ACS's unfair and deceptive acts and practices repeatedly occurred in ACS's
2 trade or business and were capable of deceiving a substantial portion of the public, particularly
3 since ACS solicits employees from Washington's general labor market.

4 9.4 ACS's unfair and deceptive acts and practices affect the public interest. RCW
5 49.12.010 provides, "The welfare of the state of Washington demands that all employees be
6 protected from conditions of labor which have a pernicious effect on their health." Thus, the
7 Washington public has a strong interest in seeing that the provisions of Washington's wage and
8 hour laws are enforced. Further, the unfair and deceptive acts and practices were committed in
9 the general course of ACS's business in Washington and have already injured thousands of
10 Washington residents. There is a likelihood that ACS's practices will injure other members of
11 the Washington public, particularly since ACS solicits employees from Washington's general
12 labor market. Moreover, ACS receives services from employees for which ACS does not pay,
13 unlike its competitors. Finally, Washington does not recover taxes on that unpaid labor.

14 9.5 As a direct and proximate cause of ACS's unfair and deceptive acts and
15 practices, Plaintiff Hill and the Class have been injured and are entitled to recover treble
16 damages, attorneys' fees, and costs pursuant to RCW 19.86.090.

17 **X. PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff Hill, on her own behalf and on behalf of the members of the
19 Class, pray for judgment against Defendants as follows:

- 20 A. Certification of the proposed Plaintiff Class;
- 21 B. A declaration that Defendants are financially responsible for notifying all Class
22 members of its wage and hour violations;
- 23 C. Appoint Plaintiff Hill as representative of the Class;
- 24 D. Appoint the undersigned counsel as counsel for the Class;
- 25 E. Declare that Defendants' actions complained of herein violate RCW 49.46.130,
26 RCW 49.48.010, RCW 49.52.050, and RCW 19.86;

1 F. Enjoin Defendants and their officers, agents, successors, employees,
2 representatives, and any and all persons acting in concert with Defendants, as provided by law,
3 from engaging in the unlawful and wrongful conduct set forth herein;

4 G. Award Plaintiff Hill and the Class compensatory and exemplary damages, as
5 allowed by law;

6 H. Award Plaintiff Hill and the Class attorneys' fees and costs, as allowed by law;

7 I. Award Plaintiff Hill and the Class prejudgment and post-judgment interest, as
8 provided by law;

9 J. Permit Plaintiff Hill and the Class leave to amend the Complaint to conform to
10 the evidence presented at trial; and

11 K. Grant such other and further relief as the Court deems necessary, just, and
12 proper.

13 DATED this 19th day of April, 2012.

14 TERRELL MARSHALL DAUDT & WILLIE PLLC

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