

1 **LORONA STEINER DUCAR, LTD.**
3003 North Central Avenue, Suite 1500
2 Phoenix, Arizona 85012-2909
Telephone: (602) 277-3000
3 Facsimile: (602) 277-7478

COPY

4 Jess A. Lorona, #009186
Katherine E. Flaherty #024303

MAY 20 2010

5
6 **Attorneys for Plaintiffs**



7 **IN THE SUPERIOR COURT OF ARIZONA**
8 **COUNTY OF MARICOPA**

9
10 **CASEY CORBIN; TOBY HARRIS;**
ALAN REESER,

CASE NO. CV2010-016149

11 Plaintiffs,

COMPLAINT-CLASS ACTION

12 vs.

13
14 **GODADDY.COM, INC.,** an Arizona
corporation,

15 Defendant.

16 Plaintiffs, individually and on behalf of all others similarly situated, for their
17 claims against Defendant, allege upon personal knowledge as to themselves and upon
18 information and belief as to other members of the class, as follows:
19

20 **JURISDICTION/VENUE**

21 1. Plaintiff Casey Corbin ("Corbin") was, at all times relevant herein, a
22 resident of the State of Arizona, County of Maricopa.

23 2. Plaintiff Toby Harris ("Harris") is a resident of the State of Arizona,
24 County of Maricopa.
25

LORONA STEINER DUCAR, LTD.
ATTORNEYS AT LAW
PHOENIX CORPORATE CENTER
3003 NORTH CENTRAL AVENUE, SUITE 1500
PHOENIX, ARIZONA 85012-3909
(602) 277-3000

1 12. Plaintiff Harris's wage was \$12.00 per hour throughout his employment
2 with GoDaddy.

3 13. Plaintiff Reeser was employed by GoDaddy as an Inbound Technical
4 Sales and Support Specialist from approximately July 27, 2006, to approximately
5 January 29, 2010.
6

7 14. Plaintiff Reeser's starting wage was \$12.50, and his hourly rate was
8 \$15.80 when he was let go from his employment with GoDaddy. Plaintiff Reeser's
9 starting wage reflects an additional \$.50 for working "second shift."

10 15. GoDaddy advertises that individuals employed as Inbound Technical
11 Sales and Support Specialists beginning salaries are "\$12.00 per hour + bonus to
12 start," that they are eligible for bonus pay even during training and that average
13 earnings are between \$35,000.00 and \$45,000.00 per year.
14

15 16. GoDaddy e-mails its Inbound Technical Sales and Support Specialists a
16 spreadsheet of bonus period numbers on a bi-weekly basis.

17 17. During training, employees are presented with a complex bonus structure
18 which is not provided to them in writing.

19 18. Bonus payments are based upon total sales, however, GoDaddy
20 selectively refuses bonuses to employees regardless of sales numbers on the basis of a
21 "Quality Assurance" factor which is, upon information and belief, subjective and
22 arbitrary.
23

24 19. Plaintiffs were each denied earned bonuses based on a subjective Quality
25 Assurance factor applied at will by GoDaddy.

1 20. On or about February 1, 2010, at Plaintiff Harris's request, Plaintiff
2 Harris met with Brett Snyder, the Manager of Employee Relations for GoDaddy, to
3 discuss the wrongful withholding of bonus payments.

4 21. Plaintiff Corbin was present at that meeting.

5 22. Prior to the meeting, Mr. Snyder assured Harris that the meeting was not
6 an investigative meeting where there could be possible disciplinary action and that the
7 meeting was concerned with policy interpretation.

8 23. At the February 1, 2010 meeting, Harris presented Mr. Snyder with a
9 "screen-shot" depicting an e-mail message sent to Harris and other GoDaddy
10 employees showing their production numbers and Quality Assurance evaluations.

11 24. The screen-shot showed that Harris had the highest sales volume for that
12 bonus period but was denied a bonus based solely on the subjective Quality Assurance
13 factor.

14 25. Harris also provided Mr. Snyder with an e-mail from Harris's GoDaddy
15 e-mail account to his personal e-mail account showing Harris's commission report
16 (the "CRM") for the same period.

17 26. Harris questioned the legality of withholding bonuses earned through
18 sales production on the basis of a subjective factor.

19 27. On February 7, 2010, six (6) days after this meeting, Harris was
20 terminated.

21 ///

22 ///

1 maintained by Defendant, and the class members may be notified of the pendency of
2 this action by published and/or mailed notice.

3 **33. Existence and Predominance of Questions of Law and Fact.**

4 Common questions of law and fact exist to all members of the Class. These questions
5 predominate over the questions affecting only individual members. These common
6 legal and factual questions include, among other things:
7

- 8 a. Whether Defendant's bonus system with regard to Inbound
9 Technical Sales and Support Specialists is non-discretionary.
- 10 b. Whether Defendant wrongfully withheld bonus payments from
11 Plaintiffs by employing a subjective and arbitrary Quality Assurance
12 factor to deny earned bonus payments.
- 13 c. Whether Defendant improperly calculated its employees' normal
14 rates of pay for purposes of overtime pay by excluding non-
15 discretionary bonuses.
- 16 d. Whether Defendant has violated the Fair Labor Standards Act by
17 withholding certain overtime payments from its employees.
- 18 e. Whether Defendant has violated A.R.S. 23-355 by withholding
19 wages from its employees.
20
21

22 **34. Typicality.** Plaintiffs' claims are typical of the claims of each of the
23 Class members. Plaintiffs are entitled to relief under the same cause(s) of action as
24 the other members of the Class.

25 ///

1 35. **Adequacy.** Plaintiffs are adequate representatives of the Class because
2 their interests coincide with and are not antagonistic to the interests of the members of
3 the class they seek to represent. They have retained counsel competent in complex
4 class action litigation and they intend to pursue this action vigorously. The interests of
5 the members of the Class will be fairly and adequately protected by Plaintiffs and their
6 counsel.
7

8 36. **Superiority.** Questions of law and fact common to the Class members
9 predominate over questions affecting only individual members, and a class action is
10 superior to other available methods of fair and efficient adjudication of the
11 controversy. The damages suffered by each Class member are such that individual
12 prosecution would prove burdensome and expensive given the complex and extensive
13 litigation necessitated by Defendant's conduct. It would be virtually impossible for
14 members of the Class to redress effectively the wrongs done to them on an individual
15 basis. Even if the members of the Class could afford such individual litigation, it
16 would be an unnecessary burden on the Courts. Furthermore, individualized litigation
17 presents a potential for inconsistent and contradictory judgments and increases the
18 delay and expenses to all parties and to the court system presented by the legal and
19 factual issues raised by Defendant's conduct. By contrast, the class action device will
20 result in substantial benefits to the litigants and the Court by allowing the Court to
21 resolve numerous individual claims based upon a single set of proof in a case.
22
23

24 37. **Injunctive Relief Is Appropriate for The Class.** Class certification is
25 appropriate because Defendant has acted on grounds generally applicable to the Class,

1 making appropriate relief with respect to Plaintiffs and the Class members.
2 Specifically, Plaintiffs seek relief in the form of a Court order mandating that: (1)
3 Defendant properly include all non-discretionary bonuses when calculating its
4 employees regular rates of pay for overtime payment purposes; (2) Defendant cease
5 employing a subjective and arbitrary Quality Assurance factor to deny employees
6 earned bonus payments and (3) Defendant compensate all Class members for
7 improperly withheld bonuses and overtime payments.
8

9
10 **COUNT ONE**
(Violation of the Fair Labor Standards Act As To All Plaintiffs and Class)

11 38. Plaintiffs incorporate each and every allegation set forth above as if
12 more fully set forth herein.

13 39. GoDaddy employed a non-discretionary bonus system pursuant to which
14 its employees were to receive bonus payments based upon sales volume.

15 40. Plaintiffs relied upon the promise of bonuses in completing their work
16 for GoDaddy.

17 41. GoDaddy wrongfully withheld overtime pay from the Plaintiffs by
18 excluding the Plaintiffs' non-discretionary bonus payments from their normal rates of
19 pay for purposes of calculating their overtime pay in violation of 29 U.S.C. § 207(a)
20 and (e)(3).
21

22 42. That all conditions precedent and subsequent to the liability of GoDaddy
23 to Plaintiffs have been performed or have occurred.
24

25 ///

1 43. Pursuant to 29 U.S.C. § 216(b), Plaintiffs are entitled to their unpaid
2 overtime compensation.

3 44. GoDaddy's failure to pay overtime to the Class was "willful" within the
4 meaning of Section 6(a) of the Portal-to-Portal Pay Act, as amended, 29 U.S.C. § 260.
5 Accordingly, the Class is entitled to an award of liquidated damages in an amount
6 equal to the amount of unpaid overtime pay described above, pursuant to Section
7 16(b) of the Fair Labor Standards Act. Alternatively, should the Court find that
8 GoDaddy did not act willfully in failing to pay overtime pay, the Class is entitled to an
9 award of prejudgment interest at the applicable legal rate.
10

11 45. Pursuant to 29 U.S.C. § 216(b), Plaintiffs are entitled to an award of
12 their reasonable attorneys' fees and costs incurred herein.
13

14 **COUNT TWO**
15 **(Violation of A.R.S. § 23-355 As To All Plaintiffs and Class)**

16 46. Plaintiffs incorporate each and every allegation set forth above as if
17 more fully set forth herein.

18 47. Plaintiffs each had an enforceable contract with GoDaddy pursuant to
19 which each Plaintiff agreed to work for GoDaddy and GoDaddy agreed to pay each
20 Plaintiff their respective hourly rate plus bonuses calculated on a bi-weekly basis.

21 48. GoDaddy advertises that individuals employed as Inbound Technical
22 Sales and Support Specialists beginning salaries are "\$12.00 per hour + bonus to
23 start," that they are eligible for bonus pay even during training and that average
24 earnings are between \$35,000.00 and \$45,000.00 per year.
25

1 49. During training, employees are presented with a complex bonus
2 structure which is not provided to them in writing.

3 50. GoDaddy employed a non-discretionary bonus system pursuant to which
4 its employees were to receive bonus payments based upon sales volume.

5 51. Plaintiffs relied upon the promise of bonuses in completing their work
6 for GoDaddy.

7 52. GoDaddy wrongfully withheld bonus payments from Plaintiffs by
8 employing a subjective and arbitrary Quality Assurance factor to deny earned bonus
9 payments.

10 53. A.R.S. § 23-355 provides that an employee may bring a civil action
11 against an employer and may recover from an employer an amount that is treble the
12 amount of the unpaid wages that are owed to the employee.

13 54. Pursuant to A.R.S. § 23-350(5), “wages” includes all “nondiscretionary
14 compensation due an employee in return for labor or services rendered by an
15 employee for which the employee has a reasonable expectation to be paid,” such as
16 bonuses.

17 55. Plaintiffs are entitled to treble the amount of their unpaid bonuses.

18 56. Plaintiffs are also entitled to treble the amount of their damages under
19 Count One above.

20 57. All conditions precedent and subsequent to the liability of Defendant to
21 Plaintiffs have been performed or have occurred.

22
23
24
25 ///

1 64. Additionally, actions by GoDaddy were done with such an evil mind
2 and willful intent to harm Plaintiff Harris in such a way that Plaintiff Harris is entitled
3 to recover punitive damages for the misconduct.

4 65. As a direct and consequential result of these acts, Plaintiff Harris has
5 been damaged in an amount to be proven at trial.

6 **WHEREFORE**, Plaintiffs and the members of the Class pray for the
7 following as to Counts One and Two:
8

9 1. An order certifying the proposed class herein under Arizona Rule of
10 Civil Procedure 23 and appointing Plaintiffs as class representatives and appointing
11 Plaintiffs' undersigned counsel as class counsel;

12 2. Injunctive relief pursuant to federal and state law requiring that
13 Defendant (1) properly include all non-discretionary bonuses when calculating its
14 employees' normal rates of pay for overtime payment purposes; and (2) cease
15 employing a subjective and arbitrary Quality Assurance factor to deny employees
16 earned bonus payments;

17 3. Judgment against Defendant GoDaddy.com, Inc. in an amount to be
18 determined at trial to compensate Plaintiffs and all Class members for improperly
19 withheld bonuses and overtime payments, trebled pursuant to A.R.S. § 23-355,
20 together with interest thereon at the rate of 10% per annum from the date of
21 Judgment until paid;
22

23
24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

4. Alternative to treble damages pursuant to A.R.S. § 23-355, an award of liquidated and/or punitive damages as a result of GoDaddy's willful failure to pay overtime compensation pursuant to 29 U.S.C. § 216;

- 5. An award of prejudgment and post-judgment interest;
- 6. Plaintiffs' costs incurred herein and all accruing costs;
- 7. Plaintiffs' reasonable attorneys' fees; and
- 8. Such other and further relief as the Court may deem just and proper.

FURTHER, Plaintiff Harris prays for the following as to Count Three:

- 1. For payment of lost earnings in an amount to be determined at trial;
- 2. For punitive damages in an amount to be determined at trial;
- 3. For Plaintiff Harris's costs incurred herein and all accruing costs; and
- 4. Such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 20th day of May, 2010.

LORONA STEINER DUCAR, LTD.

BY: Katherine E. Flaherty
Jess A. Lorona
Katherine E. Flaherty
Attorneys for Plaintiffs