

GDS* TECHNICIANS SUE THEIR COMPANY



Class action alleges violations of Fair Labor law

On April 11, a former GDS technician filed suit in the United States District Court for the Southern District of Texas against Global Distribution Services, alleging that the company wrongly classifies technicians as “independent contractors” and thus does not pay them overtime under the Fair Labor Standards Act (FLSA). GDS has denied the allegations.

The suit seeks a jury trial to force GDS to pay the technicians unpaid overtime wages (generally computed at time-and-a-half for work time over 40 hours/week), “liquidated damages” equal to the overtime wages, interest, court costs, and attorneys’ fees, and other relief.

GDS is the same company identified in our fall 2015 cover story as “The worst garage door company in the nation.” The company was also the employer of Tim Patterson of California, who pleaded guilty in July to multiple felonies for excessive charges for garage door repairs (see story on pages 42-48).

Certifying the class

On July 5, Judge Nancy F. Atlas certified the class, allowing other GDS technicians to join the lawsuit. Specifically, those who may join include all current and former technicians classified as independent contractors who worked for GDS between July 5, 2014, and the present.

GDS was ordered to supply the plaintiff, by the end of July, with a list of the last known names, addresses, and email addresses of all potential class members. The suit alleges that, in the last three years, GDS has had more than 300 garage door technicians in the U.S.

More than 50 technicians have reportedly joined the lawsuit. That number may rise considerably after all potential class members are individually contacted in August and September. To be included, technicians must

opt in within 60 days from the date of mailing of the first notice. The opt-in deadline is expected to be around Oct. 10.

When GDS technicians are notified of the lawsuit, the notice must specify that they cannot be fired, demoted, or have their pay cut because they chose to participate in this case. GDS technicians in California and Arizona may not join the suit since those states already require GDS to consider technicians as employees.

The details of the suit

The lawsuit is known as Redmon v. Global Distribution Services, Inc., et al., Case No. 4:17-cv-01119. It was initially filed by Bryan Redmon, who worked as a GDS technician in the Houston area from 2013 until his resignation in September of 2015. The suit’s named defendants are Global Distribution Services, also known as America’s Alliance, America’s Choice Garage Door Service, and Independent Contractors Group.

The lawsuit, in its attempt to show that the technicians should be classified as employees, contains several details of allegations about the inner workings of GDS:

1. If a customer’s repair is less than \$200, technicians had to call a special GDS department to have the customer talk directly to GDS. The goal was to get the customer to pay more.
2. GDS promises in its Craigslist ads to give technicians “more work than YOU can handle.”
3. Even though Redmon was an “independent contractor,” “he was unable to work anywhere else even if he wanted to because he was working 60 to 70 hours per week on average.”
4. Citing an email from (former) COO Lance Willard, the suit alleges that GDS’s “written national policy (is) ... to reduce the (technicians’) commissions ..., suspend them, or fire them, if they refused a call (or

did not complete the call as scheduled.”

5. GDS required technicians to build up a \$1,200 deposit through withholdings.

Employee or independent contractor?

The suit identifies five factors that it claims should determine whether an individual is an employee or an independent contractor. The five determining factors are:

1. The degree of control exercised by the alleged employer.
2. The extent of the relative investments of the worker and the alleged employer.
3. The degree to which the worker’s opportunity for profit or loss is determined by the alleged employer.
4. The skill and initiative required in performing the job.
5. The permanency of the relationship.

The suit contends, “In this case, the facts demonstrate that Plaintiff and the Members of the Class are employees, not independent contractors.”

Court documents also note that GDS denies the allegations, contending that all of its garage door technicians are properly classified as independent contractors or are otherwise exempt from overtime under the FLSA.

The Houston law firm of Shellist Lazarz Slobin is representing Redmon and the technicians on a contingency fee basis, which means they don’t get paid unless they win. The firm is board certified in labor and employment law and has handled a significant number of class action cases around the country. ■

**GDS goes by many names, such as Neighborhood Garage Door Service, Yes Garage Door Service, Fox Overhead Garage Doors, Five Star Garage Door Repair, and dozens more. “Garage Door Services of Houston” is a different company that has no connection with this GDS.*