

managed by Defendant AG of Durham, Inc. (õAG Durhamö), Defendant AG of Raleigh, Inc. (õAG Raleighö), Defendant AG of Wake Forrest, Inc. (õAG Wake Forrestö), Defendant Casey A. Fox (õFoxö), Kent L. Hodges (õHodgesö) and Karen B. Halsey (õHalseyö) (collectively õDefendantsö) and have been subject to the unlawful practices detailed herein.

2. Collectively, Defendants own and operate at least three (3) Mellow Mushroom restaurants in the State of North Carolina. Each of these locations has employed waiters and waitresses (collectively õTipped Employeesö) who have been subjected to Defendants' unlawful practices.

3. Under applicable employment law, Plaintiff and Tipped Employees are entitled to receive at least the mandated minimum wage for all hours worked. Due to Defendants' unlawful practices concerning gratuities, Defendants have improperly applied a õtip creditö against the wages paid to Plaintiff and Tipped Employees, thus paying them less than the mandated minimum wage. As a result, Plaintiff and Tipped Employees have been illegally under-compensated for their work.

4. Plaintiff further alleges that Defendants had a uniform policy and practice to force employees to work off the clock. Due to Defendants' policy of requiring them to work while they were off the clock, Plaintiff and members of the Class (defined below) were not paid for all the time they worked. As a result,

Plaintiff and members of the Class were illegally under-compensated for their work.

5. As set forth below, Defendants violated the aforementioned laws by failing to satisfy the notice requirements of the tip credit provisions of the FLSA; failing to ensure that Tipped Employees earn the mandated minimum wage when taking the tip credit; requiring Tipped Employees to use their tips to reimburse Defendants for uniforms and other ordinary business expenses; and failing to pay Tipped Employees for hours worked, in violation of the FLSA, the NCWHA, and North Carolina common law.

SUMMARY OF CLAIMS

6. Plaintiff brings this action as a collective action to recover unpaid wages, pursuant to the FLSA.

7. Specifically, Plaintiff brings this suit on behalf of the following similarly situated persons:

All current and former Tipped Employees who have worked for Defendants within the statutory period covered by this Complaint, and elect to opt-in to this action pursuant to the FLSA, 29 U.S.C. § 216(b) (öCollective Classö).

8. In addition, Plaintiff also brings this action as a state-wide class action to recover unpaid wages, and failing to pay the applicable minimum wage, pursuant to the NCWHA.

9. Specifically, Plaintiff brings this suit on behalf of the following similarly situated persons:

All current and former Tipped Employees who have worked for Defendants in the State of North Carolina within the statutory period covered by this Complaint. (öNC Classö).

10. The Collective Class and the NC Class are hereafter collectively referred to as the öClassesö.

11. Plaintiff alleges on behalf of the Collective Class that they are: (i) entitled to unpaid minimum wages from Defendants for hours worked for which Defendants improperly applied the tip credit and they did not receive the mandatory minimum wage, as required by law; and (ii) entitled to liquidated damages pursuant to the FLSA, 29 U.S.C. § 201 *et seq.*

12. Plaintiff alleges on behalf of the NC Class that Defendants violated the NCWHA by failing to pay them wages for all hours worked.

13. Plaintiff is unaware of the names and the capacities of those defendants sued as DOES 1 through 10 but will seek leave to amend this Complaint once their identities become known to Plaintiff. Upon information and belief, Plaintiff alleges that at all relevant times each defendant was the officer, director, employee, agent, representative, alter ego, or co-conspirator of each of the other defendants. In engaging in the alleged conduct herein, defendants acted in the course, scope of, and in furtherance of the aforementioned relationship.

Accordingly, unless otherwise specified herein, Plaintiff will refer to all defendants collectively as "Defendants" and each allegation pertains to each of the defendants.

PARTIES

14. Plaintiff Andrea Edwards is a resident of the State of North Carolina who was employed by Defendants as a Tipped Employee in their Durham, North Carolina restaurant location from on or about May 2009 through October 2014, who Defendants failed to compensate properly for all hours worked.

15. While Plaintiff was employed by Defendants, she worked under her maiden name -- "Andrea Madle."

16. Plaintiff has consented in writing to be a plaintiff in this action. A copy of her consent to sue form is attached hereto as Exhibit "A."

17. Defendant AG of Durham operates a restaurant employing Tipped Employees under the trade name Mellow Mushroom at 410 Blackwell St., Durham, NC. Upon information and belief, Defendant Durham is a North Carolina corporation with its principal offices located at 1323 Brooks Avenue, Raleigh, North Carolina. According to its Business Corporation Annual Report, Defendant Durham maintains its office mailing address at P.O. Box 71549 Durham, NC 27722. At all relevant times during the statutory period covered by this Complaint, Defendant has transacted business within the State of North Carolina.

18. Defendant AG of Wake Forest operates a restaurant employing Tipped Employees under the trade name Mellow Mushroom at 2125 South Main St., Wake Forest, NC. Upon information and belief, Defendant Wake Forest is a North Carolina corporation with its principal offices located at 1323 Brooks Avenue, Raleigh, North Carolina. According to its Business Corporation Annual Report, Defendant Wake Forest maintains its office mailing address at P.O. Box 71549 Durham, NC 27722. At all relevant times during the statutory period covered by this Complaint, Defendant has transacted business within the State of North Carolina

19. Defendant AG of Raleigh operates a restaurant employing Tipped Employees under the trade name Mellow Mushroom at 601 West Peace St., Raleigh, NC. Upon information and belief, Defendant Raleigh is a North Carolina corporation with its principal offices located at 1323 Brooks Avenue, Raleigh, North Carolina. According to its Business Corporation Annual Report, Defendant Raleigh maintains its office mailing address at P.O. Box 71549 Durham, NC 27722. At all relevant times during the statutory period covered by this Complaint, Defendant has transacted business within the State of North Carolina.

20. Defendant Casey A. Fox (õFoxö) is a natural person residing in the State of North Carolina. As set forth in public filings with the North Carolina Department of the Secretary of State, Defendant Fox is the President of Defendants

AG Durham, AG Wake Forest and AG Raleigh. Upon information and belief, Defendant Fox is the partner/owner of the franchises AG Durham, AG Wake Forest and AG Raleigh. In his capacity as officer of each of the Defendants operating as "Mellow Mushroom" and as President and franchisor of the chain of restaurants, Defendant Fox exercises sufficient control over the labor policies and practices complained of herein to be considered the employer of Plaintiff and the Classes for the purposes of the FLSA and the NCWHA.

21. Defendant Kent L. Hodges ("Hodges") is a natural person residing in the State of North Carolina. As set forth in public filings with the North Carolina Department of the Secretary of State, Defendant Hodges is the Vice-President of Defendants AG Durham, AG Wake Forest and AG Raleigh. Defendant Hodges is also part-owner of Defendants AG Durham, AG Wake Forest and AG Raleigh. In his capacity as officer and owner of each of the Defendants operating as "Mellow Mushroom," Defendant Hodges exercises sufficient control over the labor policies and practices complained of herein to be considered the employer of Plaintiff and the Collective Class for the purposes of the FLSA and the NCWHA.

22. Defendant Karen B. Halsey ("Halsey") is a natural person residing in the State of North Carolina. As set forth in public filings with the North Carolina Department of the Secretary of State, Defendant Halsey is the Secretary of Defendant AG Wake Forest. Defendant Halsey is also part-owner of Defendants

AG Durham, AG Wake Forest and AG Raleigh. In her capacity as officer and owner of each of the Defendants operating as "Mellow Mushroom," Defendant Halsey exercises sufficient control over the labor policies and practices complained of herein to be considered the employer of Plaintiff and the Collective Class for the purposes of the FLSA and the NCWHA.

23. In press releases and publications, Defendants Fox, Hodges, and Halsey are held out as "owners" of defendant-entities AG Durham, AG Wake Forest and AG Raleigh.

JURISDICTION AND VENUE

24. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331 based on Plaintiff's claim under the FLSA (29 U.S.C. § 201 *et seq.*) This Court has jurisdiction under 28 U.S.C. § 1367 over Plaintiff's claim under the NCWHA.

25. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) as a substantial part of the acts or omissions giving rise to the claims alleged herein occurred within this judicial district, and the Defendants are subject to personal jurisdiction in this district.

26. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

FACTUAL ALLEGATIONS

27. The crux of the FLSA and the NCWHA is that all employees are entitled to be paid at least mandated minimum wages for all hours worked.

28. Contrary to these basic protections, Plaintiff and the members of the Classes were not lawfully paid the mandated minimum wage for all hours they worked.

29. Plaintiff and the members of the Classes are, or were, Tipped Employees employed by Defendants.

30. Plaintiff's typical shift lasted anywhere from 4 to 6 hours. She typically worked anywhere from 3 to 6 shifts per week and worked, on average, approximately 20-25 hours or more per week.

31. Although her schedule occasionally varied, Plaintiff typically worked the following days of each week: Monday, Thursday, Friday, Saturday, and Sunday.

32. Upon information and belief, Plaintiff and the other Tipped Employees were paid a straight \$2.13 per hour worked, irrespective of the number of hours worked or the amount of tips received.

33. Upon information and belief, because of the uniform set of employment policies and practices, as well as the degree of control exerted,

Defendants were the employer (single, joint, or otherwise) of Plaintiff and the other Tipped Employees.

34. Upon information and belief, the Mellow Mushroom restaurants are/were operated by Defendants under uniform policies applicable to the members of the Classes.

35. Upon information and belief, Defendants Fox, Hodges and Halsey established separate legal entities (Defendants AG Durham, AG Wake Forest and AG Raleigh) to operate each location for purposes of limiting liability and also for purposes of ownership of liquor licenses and/or franchises.

The Tip Credit Provision & Requirements

36. Rather than pay their Tipped Employees the applicable minimum wage Defendants chose to take a tip credit and pay their Tipped Employees less than the applicable minimum wage. Upon information and belief, Defendants paid their Tipped Employees \$2.13 per hour.

37. Under applicable law, in certain circumstances, it is permissible for an employer to take a tip credit and pay its employees less than minimum wage provided that the employee's tips received from customers plus the tip credit paid by the employer equals the minimum wage.¹

¹ An employer is not relieved of their duty to pay an employee wages at least equal to the minimum wage by virtue of taking a tip credit or by virtue of the employee

38. According to the Department of Labor's (DOL) Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA) (Fact Sheet #15):

the maximum tip credit that an employer can currently claim under the FLSA is \$5.12 per hour (the minimum wage of \$7.25 minus the minimum required cash wage of \$2.13).

39. As is made plain in Fact Sheet #15, in order to claim a tip credit, the employer must notify its employees of its intention to take the tip credit and must also inform its employees that all tips received by the employee are to be retained by the employee (except for those tips that are part of a valid tip pooling arrangement).

40. Moreover, an employer must explicitly notify the employee as to the amount of the tip credit and inform the employee that the employee must still earn the mandated minimum of \$7.25 per hour between the amount of the tip credit taken by the employer and the amount of tips earned by the employee.

receiving tips from customers in an amount in excess of the applicable minimum wage. That is, an employer in the restaurant industry must pay the employee wages at least equal to the minimum wage or equal to the minimum wage less the tip credit, provided the tips claimed exceed the tip credit. Under no circumstances is the employer relieved of paying at least the minimum wage for all hours worked, regardless of how much an employee earns in tips.

41. An employer bears the burden of showing that it has satisfied the notification requirement of informing its employees that tips are being credited against the employee's hourly wage.² If an employer cannot demonstrate its compliance with this notification requirement, no credit can be taken and the employer is liable for the full minimum wage.

42. Further, where a tipped employee earns less in tips than the tip credit claimed, the employer is required to make up the difference. Stated another way, if a tipped employee in North Carolina earns less than \$5.12 per hour in tips (the maximum tip credit permissible where the employer pays the employee \$2.13 per hour), the employer must raise that tipped employee's hourly cash component the necessary amount above \$2.13 per hour so as to ensure that the employee earns at least \$7.25 per hour or the mandated minimum wage.

Defendants' Failure to Notify Tipped Employees

43. As explained above, the DOL has very specific requirements regarding what an employer must notify his/her employee of if that employer intends to claim a tip credit.

44. Rather than comply with the notification requirements set forth in Fact Sheet #15, Defendants chose to simply pay its Tipped Employees \$2.13 per hour.

² Courts have strictly construed this notification requirement. Accordingly, some courts have held that a generic governmental poster (which is required by the DOL) does not satisfy the tip credit notification requirement.

In short, Defendants failed to explicitly inform its Tipped Employees of (i) their intention to take the tip credit, (ii) the amount Defendants intended to claim as a tip credit, and (iii) that all tips are to be retained by the Tipped Employee.

45. District courts across the country have held that where an employer fails to satisfy any one of the notification requirements, that employer forfeits the tip credit and must pay the employee the full minimum wage.

46. Defendants never notified Plaintiff that they intended to take a tip credit, nor how much that amount would be. In fact, during her time in Defendants' employ, Plaintiff does not ever recall hearing the term "tip credit."

Defendants Unlawfully Retained A Portion Of Tipped Employees' Tips

47. Plaintiff and other Tipped Employees were required to purchase special t-shirts to wear during their shifts. The shirts bore Defendants' branding and were purchased using tips earned that day.

48. During the course of her employment, Plaintiff estimates that she purchased approximately 10 shirts from Defendants, with each shirt costing approximately \$12.00 (after employee discount).

49. This requirement further reduced the Tipped Employees' compensation below the minimum wage.

50. This was in violation of the tip credit provisions of the FLSA as employers are not permitted to take a portion of Tipped Employees' tips. Indeed,

Fact Sheet #15 states unequivocally that an employer must affirmatively notify its employees that all tips are to be retained by the Tipped Employee.

Defendants' Failure To Ensure Tipped Employees Earned The Full Minimum Wage

51. Defendants also made no efforts to comply with mandated requirements that employers ensure that a Tipped Employee is earning at least the full minimum wage for every hour worked. Instead, Defendants simply took the full tip credit, irrespective of how much a Tipped Employee earned in tips.

52. During the course of Plaintiff's employ, there were numerous shifts worked by Plaintiff where she earned less than \$20 in tips.

53. Despite the paltry amount of tips earned by Plaintiff during those shifts, Defendants only paid her \$2.13 per hour for each of the hours worked on those shifts.

54. This is a clear violation of the requirements of the "tip credit" provision of the FLSA. As Fact Sheet #15 makes clear, Defendants were obligated to raise the amount of the cash wage paid to Plaintiff and other Tipped Employees in each and every instance where their tipped wage did not bring their total compensation up to at least the applicable minimum wage.

55. Consequently, Defendants wholly failed to ensure that Plaintiff and the other Tipped Employees were earning at least the applicable minimum wage for every hour worked.

56. Due to Defendants' willful practices Tipped Employees have been deprived of payments to which they are entitled.

57. Additionally, Tipped Employees regularly do not clock in until well after the scheduled start of their shift, and often not until the first customers arrive. Defendants knew of and encouraged this practice.

58. Despite this practice, Tipped Employees are still expected to begin performing their required preparatory tasks at the start of their shift, whether they are clocked in or not.

59. Further, in order to complete all of their tasks and perform their customer service responsibilities, Tipped Employees often must perform some of their tasks after their shift is scheduled to end. Tipped Employees are often told by managers to clock out toward the end of their shifts and keep working.

60. Tipped Employees, including Plaintiff, regularly worked at least 1 hour per shift off the clock for the benefit of Defendants.

61. Because Defendants failed to notify their Tipped Employees that they intended to claim the tip credit and failed to ensure Tipped Employees earned at least the applicable minimum wage for every hour worked, Plaintiff and the other Tipped Employees are owed the full minimum wage for every hour worked.

62. Defendants are not eligible to claim the tip credit against the minimum wage, and thus are obligated to pay Plaintiff and Tipped Employees the full minimum wage for every hour worked.

63. Moreover, Defendants have been unjustly enriched to the detriment of the Classes by paying Tipped Employees less than the mandated minimum wage while failing to comply with the requirements for doing so.

64. While Plaintiff is unable to state at this time the exact amount owed to the Classes, Plaintiff believes that such information will become available during the course of discovery. Irrespective of the foregoing, when an employer fails to keep complete and accurate time records, employees may establish the hours worked solely by their testimony and the burden of overcoming such testimony shifts to the employer. *See Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946).

CLASS AND COLLECTIVE ACTION ALLEGATIONS

65. Plaintiff brings this action on behalf of the Collective Class as a collective action pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 207 and 216(b). Plaintiff also brings this action as a class action pursuant to Rule 23(b)(2) and (b)(3) on behalf of herself and all Tipped Employees within the State of North Carolina who worked for Defendant during the statutory period (the NC Class) for claims under the NCWHA and the North Carolina common law.

66. The claims under the FLSA may be pursued by those who opt-in to this case pursuant to 29 U.S.C. §216(b).

67. Upon information and belief, the members of each of the Classes are so numerous that joinder of all members is impracticable. While the exact number of the members of each of the Classes is unknown to Plaintiff at this time, and can only be ascertained through appropriate discovery, Plaintiff believes there are over fifty individuals in each of the Classes.

68. Defendants have acted or have refused to act on grounds generally applicable to the Classes, thereby making final injunctive relief or corresponding declaratory relief with respect to the Classes as a whole, appropriate.

69. There are common questions of law and fact as to the NC Class that predominate over questions affecting only individuals, including (a) whether Defendants violated the NCWHA by requiring Tipped Employees to work off the clock; (b) whether Defendants violated the NCWHA by failing to pay Tipped Employees all tips accrued; (c) whether Defendants' failure to properly pay Tipped Employees constitutes unjust enrichment; (d) the amount of damages, restitution, and/or other relief Plaintiff and the class members are entitled to; and (e) whether Defendants should be enjoined from continuing to require Tipped Employees to work off the clock and from failing to pay all tips accrued.

70. The class and collective action mechanisms are superior to other available methods for a fair and efficient adjudication of the controversy. The damages suffered by individual members of the Classes may be relatively small when compared to the expense and burden of litigation, making it virtually impossible for members of the Classes to individually seek redress for the wrongs done to them.

71. Plaintiff will fairly and adequately represent and protect the interests of the Classes because there is no conflict between the claims of the Plaintiff and those of the Classes, and Plaintiffs' claims are typical of the claims of the Classes. Plaintiff has retained counsel experienced in litigating class actions and other complex litigation matters, including wage and hour cases like this one.

72. Plaintiff and the Classes she seeks to represent have suffered and will continue to suffer irreparable damage from the illegal policy, practice and custom regarding Defendants' pay practices.

73. Defendants engaged in a continuing violation of the FLSA, the NCWHA, and the North Carolina common law.

FIRST CLAIM FOR RELIEF
FAIR LABOR STANDARDS ACT - MINIMUM WAGE VIOLATIONS

74. Plaintiff, on behalf of herself and the Collective Class, re-alleges and incorporates by reference the paragraphs above as if they were set forth again herein.

75. At all relevant times, Defendants had gross revenues in excess of \$500,000.

76. At all relevant times, Defendants have been and continue to be, employers engaged in interstate commerce, within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

77. At all relevant times, Defendants have employed, and/or continue to employ, Plaintiff and each of the Collective Class Members.

78. Pursuant to Defendants' compensation policies, rather than pay Tipped Employees the federally-mandated minimum wage, Defendants took a tip credit and paid Tipped Employees only the tip-credit wage.

79. At relevant times in the period encompassed by this Complaint, Defendants had a willful policy and practice of failing to satisfy the notification requirements in order for Defendants to claim the tip credit.

80. At all relevant times in the period encompassed by this Complaint, Defendants had a willful policy and practice of failing to require that Tipped Employees' tips and tip-credit wages together equaled or exceeded the minimum wage. Even had Defendants satisfied tip credit requirements, Tipped Employees still regularly failed to earn the minimum wage.

81. At all relevant times in the period encompassed by this Complaint, Defendants had a willful policy and practice of requiring Tipped Employees to

work off-the-clock. When this time is properly accounted for, Tipped Employees were paid less than the required cash component of the tip credit.

82. At all relevant times in the period encompassed by this Complaint, Defendants had a willful policy and practice of requiring Tipped Employees to use a portion of their tips to purchase uniforms. By doing so, Defendants further failed to satisfy tip credit requirements, and further reduced the Tipped Employees' compensation below the required minimum wage.

83. As a result of the Defendants' willful practices, Defendants were not entitled to pay Plaintiff and the members of the Collective Class less than the mandated minimum wage for all hours worked.

84. Defendants have violated the FLSA, 29 U.S.C. §§ 201 *et seq.* The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

85. Due to the Defendants' FLSA violations, Plaintiff, on behalf of herself and the members of the Collective Class, is entitled to recover from the Defendants, compensation for unpaid wages; an additional equal amount as liquidated damages; and reasonable attorneys' fees and costs and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

SECOND CLAIM FOR RELIEF
VIOLATION OF THE NCWHA

86. Plaintiff, on behalf of herself and the NC Class, re-alleges and incorporates by reference the paragraphs above as if they were set forth again herein.

87. This claim under the NCWHA is brought against all Defendants.

88. It is unlawful under North Carolina law for an employer not to pay all wages accruing to an employee. N.C. Gen. Stat. § 95-25.6.

89. The NC Class was not exempt from the NCWHA's requirement to be paid all wages under N.C. Gen. Stat. § 95-25.6.

90. Defendants, through their policies and practices described above, violated the NCWHA by:

- a. Failing to pay the NC Class wages for all hours worked, in violation of N.C. Gen. Stat. § 95-25.6;
- b. Failing to pay the NC Class all tips accrued, in violation of N.C. Gen. Stat. § 95-25.6; and
- c. In such other ways as may be shown by the evidence.

91. Defendants' actions constitute willful violations of the NCWHA.

92. Plaintiff has sustained losses in compensation as a proximate result of Defendants' violations of the NCWHA. Plaintiff is entitled to damages in the amount of her unpaid wages. N.C. Gen. Stat. § 95-25.22(a).

93. Plaintiff is entitled to an additional equal amount in liquidated damages under the NCWHA. N.C. Gen. Stat. § 95-25.22(a1).

94. Plaintiff is entitled to her attorneys' fees and costs under the NCWHA. N.C. Gen. Stat. § 95-25.22(d).

THIRD CLAIM FOR RELIEF
UNJUST ENRICHMENT

95. Plaintiff, on behalf of herself and the NC Class, re-alleges and incorporates by reference the paragraphs above as if they were set forth again herein.

96. At all relevant times, Defendants have employed, and/or continue to employ, Plaintiff and each member of the NC Class.

97. At all relevant times, Defendants had a willful policy and practice of failing to pay Tipped Employees the proper mandated minimum wage for each hour worked.

98. Defendants retained the benefits of free/reduced labor from Plaintiff and members of the NC Class under circumstances which rendered it inequitable and unjust for Defendants to retain such benefits.

99. Defendants were unjustly enriched by failing to pay Plaintiff and members of the NC Class at least minimum wages.

100. As a direct and proximate result of Defendants' unjust enrichment, Plaintiff and the members of the NC Class suffered injury and are entitled to

reimbursement, restitution and disgorgement from Defendants of the benefits conferred by Plaintiff and members of the NC Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and/or on behalf of herself and all other similarly situated members of the Classes:

A. Designation of this action as a collective action on behalf of the Collective Class, and prompt issuance of notice pursuant to 29 U.S.C. §216(b), apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual Consents to Sue pursuant to 29 U.S.C. §216(b);

B. Designation of this action as a class action, pursuant to Fed. R. Civ. P. 23, on behalf of the NC Class, designation of Plaintiff as the class representative, and designation of Plaintiff's attorneys as class counsel;

C. A declaratory judgment that the practices complained of herein are unlawful under the FLSA and the NCWHA;

D. An injunction against Defendants and their officers, agents, successors, employees, representatives and any and all persons acting in concert with it, as provided by law, from engaging in each of the unlawful practices, policies and patterns set forth herein;

E. An award of unpaid minimum wages to Plaintiff and the members of the Classes;

F. An award of unpaid wages and tips to Plaintiff and the members of the Classes;

G. An award of liquidated damages to Plaintiff and members of the Classes;

H. An award of costs and expenses of this action together with reasonable attorneys' and expert fees to Plaintiff and members of the Classes; and

I. Such other and further relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

101. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated: January 25, 2016

Respectfully submitted,

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