

6. As to Paragraph 5 of the Amended Complaint, Defendant admits only that Plaintiff is attempting to bring this action against Defendant on behalf of herself and others. Defendant denies that a collective action is proper in this action.

7. As to Paragraph 6 of the Amended Complaint, Defendant admits only to being an employer within the meaning of FLSA, 29 U.S.C. § 203 and admits to being involved interstate commerce, namely in the operation of fast-food restaurant businesses under franchise agreements with KFC Corporation. The remaining allegations of Paragraph 6 are denied and strict proof demanded thereof.

8. As to Paragraph 7 of the Amended Complaint, Defendant admits only that it employs employees designated as Restaurant General Managers and Assistant Unit Managers; and further that these employees are employees within the meaning of the FLSA, 29 U.S.C. § 203. Defendant further admits that it employed the Plaintiff Simons for a period of time as an Assistant Unit Manager. Defendant denies the remaining allegations of Paragraph 7 and demands strict proof thereof.

9. Defendant admits Paragraph 8 of the Amended Complaint and clarifies that the Plaintiff Simons was an Assistant Unit Manager employed by Sylvan Food Systems, Inc. from February 27, 2008 to February 9, 2011, when she was demoted to a shift leader position.

10. Defendant admits Paragraph 9 of the Amended Complaint.

11. As to Paragraph 10 of the Amended Complaint, Defendant admits only that while the Plaintiff Simons worked as an Assistant Unit Manager for Sylvan Food Systems, Inc., she and other Restaurant-Level Managers were required and permitted to work in excess of forty (40) hours per week during some weeks and were paid a qualifying salary, so as not to be due

any overtime compensation. Defendant denies the remaining allegations of Paragraph 10 and demands strict proof thereof.

12. As to Paragraph 11, Defendant admits that at all times relevant hereto, Defendant knew that its Restaurant-Level Managers, including the Plaintiff, worked in excess of forty (40) hours per week during some weeks.

13. Defendant denies Paragraph 12 of the Amended Complaint.

14. Defendant denies Paragraph 13 of the Amended Complaint.

15. Defendant denies Paragraph 14 of the Amended Complaint.

16. As to Paragraph 15, Defendant admits only that it provided its employees with an Employee Handbook / Policy Manual which served to put employees on notice of Defendant's policies and practices. Defendant denies the remaining allegations of Paragraph 15 and demands strict proof thereof.

17. As to Paragraph 16, Defendant admits that on one occasion while the Plaintiff worked as an Assistant Unit Manager for Sylvan Food Systems, Inc., the Plaintiff's paycheck was subject to a deduction because of a cash register shortage. Defendant denies the remaining allegations of Paragraph 16 and demands strict proof thereof.

18. Defendant denies the allegations in Paragraphs 17, 18, 19 of the Amended Complaint.

19. As to Paragraph 20, Defendant admits only that during the Plaintiff Simons employment with Sylvan Food Systems, Inc., that Plaintiff Simons's wages were deducted for failure of a Food Safety Inspection. Defendant denies the remaining allegations of Paragraph 20 and demands strict proof thereof.

20. As to Paragraph 21, Defendant admits only that Plaintiff was written up as the “highest ranking manager” on a February 1, 2011 Management Corrective Action Notice for a shift during which “[s]he allowed the store to run out of product and could not meet customer demand”, which was part of a failed inspection of the store, and that Plaintiff was suspended and demoted to the position of Shift Leader. Defendant denies the remaining allegations of Paragraph 21 and demands strict proof thereof.

21. Defendant denies the allegations in Paragraph 22 of the Amended Complaint.

22. Defendant admits only to the allegations in Paragraph 23 which state that a memorandum to all salaried managers dated January 25, 2007, stated a policy that “salaried managers work a minimum of fifty hours per week,” and that Defendant does “not offer sick days or extra days off.” Defendant denies the remaining allegations of Paragraph 23 and demands strict proof thereof.

23. Defendant denies the allegations in Paragraphs 24, 25, 26, 27, 28, 29, and 30 of the Amended Complaint.

24. As to Paragraph 31, Defendant denies that it willfully made deductions in violation of Department of Labor Laws, including the FLSA. Defendant further explains that any improper deductions were isolated, inadvertent, and/or otherwise justified. Defendant denies the remaining allegations of Paragraph 31.

25. Defendant denies the allegations in Paragraph 32 of the Amended Complaint.

AS TO THE FIRST CAUSE OF ACTION

26. As to Paragraph 33, Defendant incorporates its responses to the above paragraphs as if set forth herein verbatim.

27. Defendant denies the allegations in Paragraphs 34, 35, and 36 of the Amended Complaint.

AS TO THE SECOND CAUSE OF ACTION

28. As to Paragraph 37, Defendant incorporates its responses to the above paragraphs as if set forth herein verbatim.

29. Defendant denies the allegations in Paragraphs 38, 39, and 40 of the Amended Complaint.

AS TO THE PRAYER FOR RELIEF

30. Defendant denies that the Plaintiff is entitled to the itemized prayer for relief, including all sections stated in the prayer numbered (1) through (9).

FOR A SECOND DEFENSE

31. The Plaintiff fails to state a claim upon which relief can be granted.

FOR A THIRD DEFENSE

32. The Plaintiff fails to state facts sufficient to entitle the Plaintiff to proceed collectively under Section 16(b) of the FLSA, 29 U.S.C. §216(b), or to join their claims under the Federal Rules of Civil Procedure, or otherwise. Defendant asserts this case is not appropriate for collective class consideration and Defendant specifically reserves all of its rights and the grounds upon which it may move for decertification of the conditional collective class at the appropriate time.

FOR A FOURTH DEFENSE

33. To the extent that the Defendant failed to comply with any aspect of the FLSA or its implementing regulations, which alleged failure is specifically denied, such conduct was not willful or intentional, but rather occurred in good faith and upon reasonable grounds with the

belief that any acts and omissions were in compliance with the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, its administrative regulations, orders, rulings, interpretations and enforcement policies.

FOR A FIFTH DEFENSE

34. To the extent that the Defendant failed to comply with any aspect of the FLSA or its implementing regulations, which alleged failure is specifically denied, such conduct was isolated and inadvertent.

FOR A SIXTH DEFENSE

35. During the time that the Plaintiff and/or any Consenters were employed as Assistant Managers or Restaurant General Managers by the Defendant, the Plaintiff and/or the Consenters were and remained exempt employees under the FLSA, 29 U.S.C. §§ 207, 213.

FOR A SEVENTH DEFENSE

36. The claims of Plaintiff and/or Consenters should be limited or barred for failure to report the specific allegations now raised in this case to Defendant's supervisors or the owners, to allow the Defendant to explain and/or correct any deductions made from the salary of Plaintiff and/or Consenters. Defendant was not given a meaningful right to cure any alleged improper deductions from the pay of Plaintiff and/or Consenters, so their claims should be dismissed.

FOR AN EIGHTH DEFENSE

37. Plaintiff's claims and/or the claims of any Consenters are, in whole or in part, barred or limited by the doctrines of setoff, settlement, payment, and release.

FOR A NINTH DEFENSE

38. Plaintiff and/or any Consenters have failed to state any facts entitling them to any liquidated or punitive damages, penalties, pre-judgment or post-judgment interest.

FOR A TENTH DEFENSE

39. The claims of Plaintiff and/or any Consenters are barred or subject to offset or reduction to the extent that their salary was intended to compensate them for all hours worked each pay period, regardless of the number of hours worked in that particular pay period. Under these circumstances, even if found to be entitled to overtime pay, which the Defendant expressly denies, Plaintiff and/or Consenters would be entitled to no more than one-half their regular rate of pay in that pay period for any overtime hours worked in that pay period.

FOR AN ELEVENTH DEFENSE

40. Some or all of the claims of Plaintiff and/or any Consenters are time barred by the applicable statutes of limitations, including but not limited to the statute of limitations for actions pursuant to the FLSA, 29 U.S.C. § 255.

FOR A TWELFTH DEFENSE

41. Defendant pleads it acted in an abundance of caution and in good faith to reimburse deductions believed to be questioned in this case, which should act as a bar to liquidated damages and/or an offset to any recovery by Plaintiff or any Conserter.

FOR A THIRTEENTH DEFENSE

42. The claims of Plaintiff and/or Consenters are barred or limited under the Fair Labor Standards Act, and its implementing regulations, including under 29 C.F.R. 541.602 and 29 C.F.R. 541.603.

Respectfully submitted,

s/Lisa Lee Smith

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January 6, 2012