

NATALIE GUNSHANNON,
148 Valley View Park
Dallas, PA 18612, Individually, and on
Behalf of all Similarly Situated Persons,
Plaintiff,

IN THE COURT OF COMMON
PLEAS OF LUZERNE OUNTY

v.

CIVIL ACTION- CLASS ACTION

Albert/Carol Mueller T-A McDonalds
104 South State Street, Suite 1
Clarks Summit, PA 18411-1696

and

Albert and Carol Mueller LTD Partnerships
1511 Scranton Carbondale Highway
Scranton, PA 18505

and

Albert Mueller, Individually
104 South State Street, Suite 1
Clarks Summit, PA 18411-1696

and

Carol Mueller, Individually
104 South State Street, Suite 1
Clarks Summit, PA 18411-1696

Defendants.

NO. 7010 OF 2013

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LUZERNE COUNTY
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NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses and objections to the claims set forth against you. You

are warned that if you fail to do so, the case may proceed without you and a Judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.


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410 Bicentennial Building, 15 Public Square
Wilkes-Barre, Pennsylvania 18701
(570) 825-8567


NORTH PENN LEGAL SERVICES, INC.
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2 East Broad Street, Suite 210
Hazleton, Pennsylvania 18201
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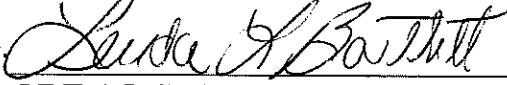
LAW OFFICE OF CEFALO & ASSOCIATES

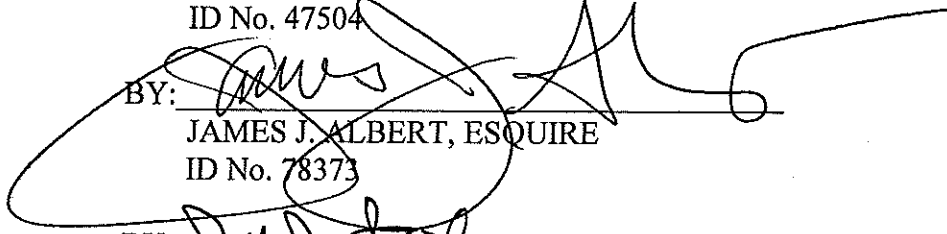
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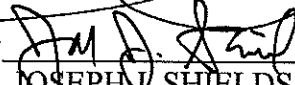

MICHAEL J. CEFALO, ESQUIRE
ID No. 16061

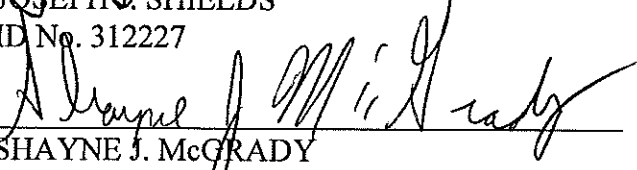
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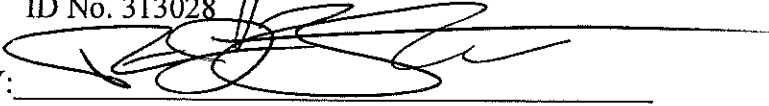
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KARL J. KWAK, ESQUIRE
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309 Wyoming Avenue
West Pittston, Pennsylvania 18643
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Defendants.

IN THE COURT OF COMMON
PLEAS OF LUZERNE COUNTY

CIVIL ACTION- CLASS ACTION

NO.

OF

COMPLAINT- CIVIL ACTION CLASS ACTION

Plaintiff, Natalie Gunshannon, by and through her undersigned attorneys, Cefalo and Associates, brings this action on behalf of herself and all other persons similarly situated and hereby alleges as follows:

NATURE OF THE CLAIM

1. This is a class action brought against Albert/Carol Mueller T-A McDonalds, Albert and Carol Mueller LTD Partnerships, Albert Mueller, Individually, and Carol Mueller, Individually (collectively, McDonalds).

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2. The Class consists of all current and former McDonalds' hourly employees who were paid wages through a JP Morgan Chase Payroll Card without the option of being paid in cash or by bank check from the time that McDonald's began payment of earned wages through the JP Morgan Chase payroll card.
3. Pennsylvania State Statute, commonly known as "The Pennsylvania Wage Payment and Collection Act", provides that "The wages shall be paid in lawful money of the United States or check." (43 P.S. § 260.3)
4. McDonalds developed a payment policy for Plaintiff and the Class that did not provide for wage payment "in lawful money of the United States or check."
5. McDonalds paid wages to Plaintiff and the Class through a JP Morgan Chase Payroll Card (Chase Payroll Card).
6. McDonalds did not offer Plaintiff and the Class any payment "in lawful money of the United States or check."
7. McDonalds developed a policy requiring Plaintiff and the Class to receive their employment wages exclusively by a Chase Payroll Card.
8. McDonalds required Plaintiff and the Class to be paid wages specifically through a Chase Payroll Card.
9. McDonalds allowed managerial employees to be paid wages by direct deposit.
10. McDonalds mandated the use of a Chase Payroll Card as the sole wage payment device for Plaintiff and the Class.
11. McDonalds mandated the use of a Chase Payroll Card for Plaintiff and the Class that charged fees in order to access their wages.
12. McDonalds caused Plaintiff and the Class to incur Payroll Card fees to obtain their wages.
13. McDonalds prevented Plaintiff and the Class from withdrawing the entire amount of their earned wages without incurring fees through the use of the mandated Chase Payroll Card.
14. This lawsuit seeks reimbursement for all fees Plaintiff and the Class incurred through the use of the McDonalds mandated Chase Payroll Card.
15. McDonalds' policy of mandating payment through a Chase Payroll Card prevents Plaintiff and the Class from having any alternative mode of payment.

16. McDonalds' policy of mandating payment through a Chase Payroll Card reduces the amount Plaintiffs are receiving in earned wages.

JURISDICTION AND VENUE

17. Jurisdiction is proper in this court pursuant to *42 P.S. 931 (a)* ("the courts of common pleas shall have unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law or usage in the court of common pleas.").
18. The total amount in controversy of the named Plaintiff and each member of the Class is less than \$75,000 per individual.
19. As master of her complaint, Plaintiff asserts no claims arising from Federal Law.
20. Plaintiff brings causes of action based solely on, and arising from, Pennsylvania Law.
21. The claims of Plaintiff and the Class are individual claims for violations of Pennsylvania Law.
22. The Plaintiff is a resident of the Commonwealth of Pennsylvania and Luzerne County.
23. The Defendants regularly conduct business in Luzerne County.

THE PARTIES

24. Natalie Gunshannon is an adult individual who resides at 148 Valley View Park, Dallas, Luzerne County, Pennsylvania, 18612.
25. Albert/Carol Mueller T-A McDonalds is a company owning McDonalds restaurants whose headquarters is located at 104 South State Street, Suite 1, Clarks Summit, Lackawanna County, Pennsylvania, 18411-1696.
26. Albert and Carol Mueller LTD Partnerships is a company owning McDonalds restaurants whose headquarters is located at 1511 Scranton Carbondale Highway, Scranton, Lackawanna County, Pennsylvania, 18505.
27. Albert Mueller is an adult individual whose listed address is 104 South State Street, Suite 1, Clarks Summit, Clarks Summit, Lackawanna County, Pennsylvania, 18411-1696.

28. Carol Mueller is an adult individual whose address is listed as 104 South State Street, Suite 1, Clarks Summit, Lackawanna County, Pennsylvania, 18411-1696.

CLASS ACTION ALLEGATIONS

29. Natalie Gunshannon brings this action on behalf of herself and all other persons similarly situated employees, current or former, who have incurred fees due to the mandated use of a JP Morgan Chase Payroll Card.
30. The McDonalds Chase Payroll Card policy requires Plaintiff and the Class to receive their justly earned wages through the issuance of Chase Payroll Cards.
31. The McDonalds Chase Payroll Card policy denies Plaintiff and the Class the ability to avoid paying fees and costs when accessing earned wages.
32. Plaintiff and the Class believe and therefore aver that the McDonalds policy of requiring hourly employees to access their earned wages through a Chase Payroll Card, which charges fees, results in some hourly employees receiving less than the required minimum wage rate.
33. This class action is brought under Rule 1702 of the Pennsylvania Rules of Civil Procedure, and the criteria specified in Rules 1708 and 1709 on which the Plaintiff relies.
34. The class is so numerous as to make it impracticable to bring all members of the Class before the Court. (*Pa. R.C.P. 1702(1)*)
35. Natalie Gunshannon believes that members of the class number in excess of seven hundred fifty (750) but the exact number can only be determined by appropriate discovery.
36. Common questions of law and fact exist as to all members of the class, and predominate over any questions affecting solely individual members of the class. (*Pa. R.C.P. 1702, Pa. R.C.P. 1708(a)(1)*) Among the questions of law and fact common to the class are:
- (a) Whether Defendants' conduct violates Pennsylvania Law;
 - (b) Whether Defendants' conduct violates public policy; and
 - (c) Whether Plaintiff and the class have sustained damages, and if so, the proper measure of damages.

37. Natalie Gunshannon will assure the adequate representation of all members of the class. *(Pa. R.C.P. 1702(4))*
38. Natalie Gunshannon has no knowledge of any conflict with any class members and the maintenance of the action. *(Pa. R.C.P. 1709(2))*
39. Plaintiff has retained counsel competent and experienced in complex, class action litigation. *(Pa. R.C.P. 1709(1))*
40. Natalie Gunshannon's claims are not only typical of, but also, coextensive with the claims of the class members. *(Pa. R.C.P. 1702(3))*
41. Natalie Gunshannon and all members of the class sustained damages because McDonalds' policy requires hourly employees to use a JP Morgan Chase Payroll Card as the sole mode of payment for Plaintiffs to receive earned wages.
42. Class action treatment is superior to the alternatives for the fair and efficient adjudication of this controversy. *(Pa. R.C.P. 1702 (5))*
43. The substantive legal claims of Natalie Gunshannon and members of the class are identical and will require evidentiary proof of the same kind and application of the same law. *(Pa. R.C.P. 1702(3))*
44. Prosecution of separate actions by individual members of the Class would create inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for the Defendants. *(Pa. R.C.P. 1708 (a)(3)(i))*
45. A Class Action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impractical. *(Pa. R.C.P. 1702(5))*
46. The amounts at stake for many of the Class members, while substantial, are not great enough to enable them to maintain separate suits against the Defendants. *(Pa. R.C.P. 1708 (a)(7))*
47. There are no unusual legal or factual issues that would cause management problems not routinely handled in class actions. *(Pa. R.C.P. 1708 (a)(2))*

48. Natalie Gunshannon believes that this action will further the policies underlying the laws of the Commonwealth of Pennsylvania, including proper method of payment for wage collection.

FACTUAL ALLEGATIONS

49. Plaintiff, Natalie Gunshannon, applied for a job at McDonalds, located at 180 North Memorial Highway, Shavertown, Luzerne County, Pennsylvania, 18708, via the Internet.

50. Ms. Gunshannon was interviewed by a McDonalds employee for a job at McDonalds.

51. McDonalds hired Ms. Gunshannon as an hourly employee.

52. On April 24, 2013, Ms. Gunshannon became an hourly employee of McDonalds.

53. Ms. Gunshannon worked at McDonalds according to McDonalds schedule for the pay period April 22, 2013 through May 5, 2013 inclusively.

54. On May 10, 2013 McDonalds issued Ms. Gunshannon a bank payroll check in the net amount of \$287.87 for wages for the pay period of April 22, 2013 through May 5, 2013 inclusively. (See Exhibit "A").

55. On May 10, 2013, Ms. Gunshannon received a JP Morgan Chase Payroll card.

56. JP Morgan Chase sent Ms. Gunshannon the following:

- a. A Chase Payroll Card bearing her name (See Exhibit "B");
- b. an instruction sheet outlining the procedure to activate and use the card,
- c. a schedule outlaying fees to be incurred by the user of the payroll card,
- d. varying Special Situations affecting the payroll card;
- e. a brochure welcoming the user to the Chase Payment Card Program;
- f. a factual disclaimer sheet outlaying the usage by Chase Bank of any personal information of the payroll card holder.

57. JP Morgan Chase Payroll card has the following fees:

CARD FEES	
ATM withdrawal (U.S.) ¹	\$1.50 each
Point-of-sale purchases: PIN and signature-based	FREE
Over-the-counter cash withdrawals	1 free per deposit; \$5.00 each thereafter
ATM balance inquiry	\$1.00 per inquiry
Monthly paper statement (optional)	\$1.00 each
Monthly statements via the Internet	FREE
ATM withdrawal (outside U.S.) ¹	\$5.00 per withdrawal
Replace lost/stolen card	\$15.00 per card
Emergency express card delivery	\$30.00 per card
Declined transactions	\$0.50 per transaction
Online bill payment (optional)	\$0.75 per transaction; you must enroll at myaccount.chase.com
Check to close account	\$10.00 per check
Inactivity fee (after 90 days of inactivity)	\$10.00 per month
Foreign Exchange Conversion rate on International transactions amount	3.5% of transaction

¹ Whenever you use any ATM there is a "network" or "ATM withdrawal fee". Additionally some Chase banks may charge you a "surcharge" typically between \$1.00 and \$3.00 for using their ATM. You can avoid a surcharge by using a Chase ATM or Abdi's ATM.

58. Ms. Gunshannon was unable to access her earned wages from McDonalds through their JP Morgan Chase Payroll card without incurring fees and costs.
59. On May 14, 2013, McDonalds refused to provide an alternative method of hourly wage payment to Ms. Gunshannon for her earned wages.
60. On May 14, 2013, McDonalds refused Ms. Gunshannon's request to issue a paper check for her hourly earned wages.
61. On May 14, 2013, McDonalds refused Ms. Gunshannon's request to have a direct deposit for her hourly earned wages.
62. On May 14, 2013, McDonalds' Shavertown manager, Lisa Chofy, told Ms. Gunshannon that "we only pay on the card."
63. On May 14, 2013 McDonalds told Ms. Gunshannon, "If you don't activate the card, there is no way for us to pay you" and "You can activate the card or we can't pay you."
64. McDonalds' hourly employees receive wage compensation by way of a JP Morgan Chase Payroll Card exclusively.
65. McDonalds Managers and Assistant Managers have the option to receive wage compensation by way of direct deposit, thus avoiding fees.
66. McDonalds does not provide a choice for hourly employees to receive their justly earned wages through a bank check, cash or direct deposit.

COUNT I

VIOLATION OF *43 P.S. § 260.3* (Pennsylvania Wage Payment and Collection Act)

67. Plaintiff repeats and realleges all prior paragraphs as set forth fully herein.
68. Pennsylvania Wage Payment and Collection Act provides that wages shall be paid in lawful money of the United States or check.
69. McDonalds has knowingly and intentionally violated the Pennsylvania Wage Payment and Collection Act by refusing to pay Plaintiff and the Class wage compensation as provided by law.

PRAYER FOR RELIEF

WHEREFORE, Natalie Gunshannon, on her behalf and on behalf of the class, respectfully requests this Court grant the following relief:

- A. An Order certifying this case as a class action and designating Natalie Gunshannon as class representative;
- B. An Order designating Cefalo and Associates as class counsel;
- C. Any and all compensatory damages as provided by Pennsylvania law;
- D. Any and all liquidated damages as provided by Pennsylvania law;
- E. All incidental damages associated with the violation of Pennsylvania law;
- F. Costs due to excess fees;
- G. Counsel fees and litigation costs as provided by Pennsylvania law;
- H. Punitive damages for willful, intentional, reckless and wanton violation of Pennsylvania law.
- I. Such other and further relief as this Court deems just and appropriate.

COUNT II UNJUST ENRICHMENT

- 70. Plaintiff repeats and realleges all prior paragraphs as set for fully herein.
- 71. McDonalds devised and implemented a plan to increase profits by fostering a scheme of mandating hourly employees to receive earned wages exclusively through a Chase Payroll Card.
- 72. McDonalds increased its profits by paying its hourly employees through use of Chase Payroll Cards, contrary to all good faith and fair dealing.
- 73. McDonalds increased their profits to the detriment of Plaintiff and the Class.
- 74. McDonalds retained and continues to retain profits and ill-gotten gains contrary to justice, equity, good conscience and Pennsylvania Law.

PRAYER FOR RELIEF


WHEREFORE, Natalie Gunshannon, on her own behalf and on behalf of the class, respectfully requests this Court grant the following:

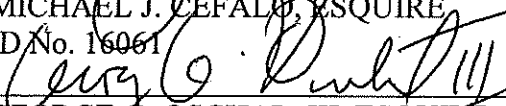
- A. An order certifying this case as a class action and designating Natalie Gunshannon as class representative;
- B. An Order designating Cefalo and Associates as class counsel;
- C. An Order requiring Defendants to reimburse Plaintiff and the Class an amount equal to the benefits and profit unjustly retained by McDonalds;
- D. General damages according to proof;
- E. Special damages according to proof;
- F. Such other and further relief as this Court deems just and appropriate.

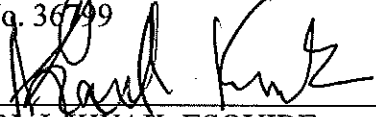
WHEREFORE, Plaintiff, Natalie Gunshannon and all members of the Class, request judgment in their favor against Defendants, Albert/Carol Mueller T-A McDonalds, Albert and Carol Mueller LTD Partnerships, Albert Mueller, individually, and Carol Mueller, individually, jointly and severally, as follows:

- 1) Any and all compensatory damages;
- 2) Any and all liquidated damages;
- 3) Any and all incidental damages;
- 4) Any and all general damages;
- 5) Any and all special damages;
- 6) Counsel fees and litigation costs;
- 7) Costs due to excess fees;
- 8) Punitive damages;
- 9) Such other and further relief as this Court deems just and appropriate.

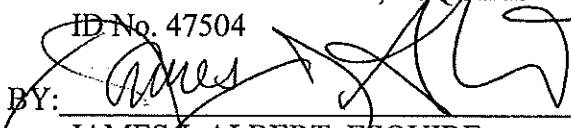
LAW OFFICE OF CEFALO & ASSOCIATES


BY: 
MICHAEL J. CEFALO, ESQUIRE
ID No. 16061

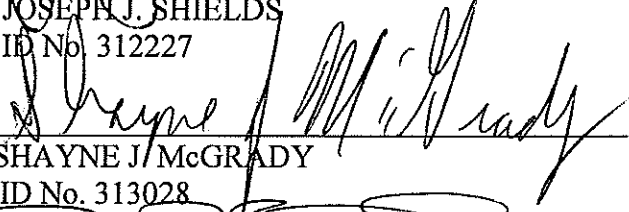
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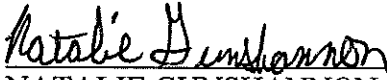
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VERIFICATION

I, NATALIE GUNSHANNON., hereby depose and say that the facts contained in the foregoing **COMPLAINT – CIVIL ACTION CLASS ACTION** are true and correct to the best of my knowledge, information and belief and made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.



NATALIE GUNSHANNON

DATE: 6/10/13

ALBERT/CAROL MUELLER T-A McDONALD'S RESTAURANTS 104 S. STATE STREET CLARKS SUMMIT, PA 18411

NAME		EMP NO	STORE NO	DEPT	CODE	SS NUMBER	M/S	FED EX	STA
Natalie M. Gunshannon		227	4808	CREW		*****1841	S	0	0
HOURS		CURRENT EARNINGS			CURRENT TAXES				
REGULAR	OVERTIME	REGULAR	OVERTIME	OTHER	GROSS	FICA	FEDERAL	STATE	OTHER
49.67		370.04			370.04	28.31	28.54	11.36	3.96
DEDUCTIONS		NET PAY							
INSURANCE									
				1.00					
PAY PERIOD	RATE	YEAR TO DATE TOTALS				CHECK DATE	CHECK NUMBER	CHECK AMOUNT	
04-22-13									
05-05-13		370.04	28.31	28.54	11.36	3.96	05-10-13	335674	287.87

