

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JANE DOE, on behalf of herself and all others similarly situated,)	
)	
Plaintiff,)	Case No. CIV-17-188-M
)	
vs.)	COMPLAINT - HYBRID CLASS
)	ACTION AND COLLECTIVE ACTION
10TH STREET TAVERNS INC., d/b/a/ RED DOG CAFE, RAYMOND MACKEY, and JASON MACKEY,)	DEMAND FOR JURY TRIAL
)	
Defendants.)	
)	

Plaintiff, Jane Doe, on behalf of herself and all others similarly situated, alleges as follows against Defendants 10th Street Taverns Inc., d/b/a Red Dog Cafe (“Red Dog”), Raymond Mackey (“R. Mackey”), and Jason Mackey (“J. Mackey”)¹:

INTRODUCTION

1. Plaintiff brings this action seeking declaratory, injunctive, and monetary relief against the Defendants for their unlawful misclassification of employees as “independent contractors.”

2. The Class that Plaintiff seeks to represent is composed of female employees who, during the relevant time-period, worked as exotic dancers (hereafter “Dancers”) at Red Dog, a club located at 6417 NW 10th St., Oklahoma City, Oklahoma.

¹ Hereafter collectively referred to as the “Defendants.”

3. Plaintiff contends that Defendants violated both state and federal wage laws by willfully failing to pay the Dancers their earned wages, causing them financial loss and injury.

4. Specifically, Plaintiff alleges that Defendants intentionally misclassified employee-dancers as “independent contractors” in a scheme to evade the payment of wages to Dancers.

5. Additionally, Plaintiff contends that Defendants imposed unlawful tip sharing requirements by forcing Dancers to share their gratuities with the Defendants and other employees working at the nightclub.

6. Plaintiff brings this action against Defendants, seeking back pay, restitution, liquidated damages, injunctive and declaratory relief, civil penalties, prejudgment interest, attorneys’ fees and costs, and any and all other relief that the Court deems just and reasonable under the circumstances.

7. Applying the actual economic reality test that governs employee/independent contractor determinations, all Dancers in the Class have been misclassified as independent contractors.

8. Since at least 2001, Oklahoma courts have applied the “economic reality test” to determine the existence of an employer-employee relationship within the state of Oklahoma. *See Washington v. Cornell Corr., Inc.*, 2001 OK CIV APP 102, ¶ 2, 30 P.3d 1162, 1163.

9. Additionally, Federal courts across the country have held that the economic reality test demonstrates that dancers at nightclubs are employees under the Fair Labor

Standards Act (the “FLSA”). *See e.g., Clincy v. Galardi S. Enterprises, Inc.*, 808 F. Supp. 2d 1326 (N.D. Ga. 2011); *McFeeley v. Jackson St. Entm’t, LLC*, 825 F. 235 (4th Cir. 2016); *Verma v. 3001 Castor, Inc.*, CIV.A. 13-3034, 2014 WL 2957453 (E.D. Pa. June 30, 2014).

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1332 because this action involves a federal question, specifically 29 U.S.C. § 216(b).

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 in that many of the acts and transactions giving rise to this action occurred in this District and because Defendants:

- a. are authorized to conduct business in this District and have intentionally availed themselves of the laws and markets within this District through the promotion, marketing, distribution and sale of their products and/or services in this District;
- b. do substantial business in this District; and
- c. are subject to personal jurisdiction in this District.

PARTIES

12. At all times relevant to this matter, Plaintiff resided and continues to reside in this District and was an employee of the Defendants as defined in 29 U.S.C. § 201 *et seq.* and O.S. tit. 40, § 165.01(2) and worked as an exotic dancer at Defendants’ nightclub.

13. Plaintiff worked continuously during the class period, beginning in 2011 and until February of 2017.

14. Throughout the course of her employment, Plaintiff, like all other class members, was: (1) misclassified as an independent contractor; (2) deprived of wages and other benefits, and (3) required to split tip income with Defendants and other employees of the nightclub.

15. Pursuant to the principles set forth in *Jane Does 1-2 v. SFBSC Mgmt., LLC*, 771 F. Supp. 3d 990, 997 (N.D. Cal. 2015) (granting exotic dancers' motion to proceed anonymously and permitting present and future plaintiffs to sue under pseudonyms) and *Doe v. Ayers*, 789 F.3d 944 (9th Cir. 2014) (finding Plaintiff inmate could proceed under a pseudonym because of the severity of threatened harm, the reasonableness of his fears, and his vulnerability to retaliation), Plaintiff files this action under a fictitious name and seeks to proceed anonymously because: (1) she wishes to preserve her right to privacy; (2) there is significant social stigma attached to Plaintiff's occupation as an exotic dancer; (3) there is an inherent amount of risk of injury by current and former patrons associated with Plaintiff's profession; (4) Plaintiff would be hesitant to maintain this action if her name was permanently associated with Defendants; and (5) Plaintiff and other dancers working for the Defendants have already been verbally and physically threatened by the managers and owners of Red Dog.

16. There is no prejudice to Defendants if Plaintiff files this action under a fictitious name and proceeds anonymously. In the ordinary course of business, Defendants identify dancers, including Plaintiff, through pseudonyms and stage names. The Fifth Circuit has recognized:

It is customary in Defendants' business for employee-dancers, like Plaintiffs, to use pseudonyms and stage names for both security and privacy purposes. The use of these names allays any reasonable fear that proceeding anonymously would offend the "customary and constitutionally-embedded presumption of openness in judicial proceedings."

NW Enterprises, Inc. v. City of Houston, 352 F.3d 162 (5th Cir. 2003).

17. There are no due process concerns if Plaintiff proceeds anonymously, because Plaintiff will privately disclose her identity to Defendants to allow Defendants to assess her claims and mount a defense.

18. Defendant Red Dog is an Oklahoma for Profit Corporation with the service address in Oklahoma listed to Jason Mackey, 3217 Canyon Road, Oklahoma City, OK 73120.

19. Defendant R. Mackey, upon information and belief, is an owner and controller of Red Dog. He can be served with process at 3217 Canyon Road, Oklahoma City, OK 73120. Upon information and belief, R. Mackey used the assets of Red Dog for his personal use and caused the assets of Red Dog to be transferred to him without adequate consideration, and has withdrawn funds from the bank accounts of Red Dog for his own personal use. R. Mackey has used Red Dog as a mere shell, instrumentally, and/or conduit from which R. Mackey has carried on his business as if Red Dog has never existed, and that the activities of Red Dog were carried out without the required holding of directors' or shareholders' meetings, and no records or minutes of corporate proceedings are maintained.

20. Defendant J. Mackey, upon information and belief, is an owner and controller of Red Dog. He can be served with process at 3217 Canyon Road, Oklahoma

City, OK 73120. Upon information and belief, J. Mackey used the assets of Red Dog for his personal use and caused the assets of Red Dog to be transferred to him without adequate consideration, and has withdrawn funds from the bank accounts of Red Dog for his own personal use. R. Mackey has used Red Dog as a mere shell, instrumentally, and/or conduit from which R. Mackey has carried on his business as if Red Dog has never existed, and that the activities of Red Dog were carried out without the required holding of directors' or shareholders' meetings, and no records or minutes of corporate proceedings are maintained.

21. Throughout the relevant period, Defendants: (1) misclassified Dancers as independent contractors rather than employees; (2) required Dancers to split their tips with Defendants; (3) required Dancers to split their tips with Defendants' managers, doormen, floorwalkers, disc jockeys, and other employees who do not usually receive tips, by paying "tip-outs;" (4) did not pay Dancers any wages; (5) demanded improper and unlawful payments from class members; and (6) adopted and implemented employment policies that violate the FLSA and other age and hour laws.

22. Defendants knew or should have known that its business model was unlawful because money given to Dancers by patrons, and not taken into Defendants' gross receipts, is legally defined as a gratuity and is the sole property of each Dancer.

23. At all relevant times, Defendants owned and operated an enterprise engaged in interstate commerce and utilized goods which moved in interstate commerce, as defined in 29 U.S.C. § 203(r) and 203(s).

FACTUAL ALLEGATIONS

24. Defendants own and operate the Red Dog nightclub located at 6417 NW 10th St., Oklahoma City, Oklahoma.

25. At all times relevant hereto, Defendants were, and are, “employers” involved in interstate commerce within the meaning of the FLSA, codified at 29 U.S.C. § 201, *et seq.*

26. At all times relevant hereto, Defendants were, and are, engaged in commerce or in the production of goods for commerce as defined in Section 3(r) of the Act (29 U.S.C. § 203(r) and 203(s).

27. All Dancers, including Plaintiff, worked at Red Dog and were Defendants’ employees.

28. Plaintiff, Jane Doe, worked at Red Dog from October of 2007 until February of 2017.

29. All Dancers, including Plaintiff, were deprived of compensation for which they were entitled as a result of the following practices, decisions, and plans of Defendants:

- a. Requiring Dancers and other employees to work without compensation;
- b. Requiring Dancers and other employees to perform work without compensation during times for which they could not receive tips;
- c. Refusing to compensate Dancers one and one half times minimum wage when their total hours worked exceeded 40 hours.
- d. Requiring Dancers to share tips with non-tipped employees;
- e. Requiring Dancers to pay fees for the right to work.
- f. Requiring Dancers to work designated shifts.

g. Defining when Dancers could work based upon their perceived attractiveness. Workers who were perceived as more attractive by Red Dog were forced to work at night. Workers who were perceived as less attractive by Defendants were forced to work day shifts.

h. Fining Dancers when they missed an assigned shift or were forced to leave early.

30. Throughout the three years preceding the filing of this Complaint, Defendants employed and misclassified all Dancers at Red Dog as “independent contractors.”

31. Defendants did not require Dancers at Red Dog to possess any specialized training, background, or education.

32. Defendants dictated the work schedules of Dancers and determined the specific times and manners in which Dancers interacted with customers and performed.

33. Defendants required Dancers to wear specific types of attire while performing.

34. Defendants required Dancers to attend unpaid staff meetings.

35. Defendants financed all advertising and licensing related to the business.

36. Defendants required Dancers to pay a specific amount, often referred to as a “house fee” or “bar fee,” to qualify to work a given shift. The fee amount varied depending on the shift, the number of customers, and whether the event was promoted by Defendants.

37. Dancers were fined by Defendants for failing to work a scheduled shift and for leaving a shift early. Defendants fined Dancers who failed to “call in” prior to a

scheduled shift. Upon information and belief, these fines were often pocketed directly by Red Dog's Manager or the Defendants themselves.

38. Defendants required Dancers to pay a specific "Disc Jockey" fee when so instructed by the Defendants. The amount and frequency of the imposed fee varied from event to event and night to night.

39. Defendants required Dancers to pay a percentage of all gratuities they received to the Defendants.

40. The fees imposed on Dancers by Defendants constitute illegal tip sharing arrangements with non-tipped employees and are also illegal kickbacks within the meaning of the FLSA.

41. Defendants have never paid Dancers any amount or type of wage. The sole source of income for the Dancers during their employment was the portion of the gratuities they were permitted by the Defendants to keep.

42. Because Defendants did not pay the Dancers wages, Defendants also did not pay Dancers one and one half times their regular rate of pay when Dancers exceeded forty hours worked in a work week.

43. Defendants' practices of not paying Dancers compensation for work performed is a violation of the FLSA.

44. Defendants knew or should have known they were in violation of the FLSA for misclassifying Dancers as independent contractors rather than employees.

45. Plaintiff is informed and believes, and based thereon alleges, that each and every one of the acts and omissions asserted herein was performed by, and/or is attributable

to Defendants' acting as agents and/or employees, and/or under the direction and control of Defendants, and that said acts and failures to act were within the course and scope of said agency, employment and/or direction and control, and were committed willfully within the meaning of the FLSA.

46. As a direct and proximate result of the unlawful actions of Defendants, the Dancers suffered, and continue to suffer, from loss of earnings yet to be ascertained, but subject to proof at trial, and in amounts in excess of the minimum required for jurisdiction of this Court.

COLLECTIVE ACTION ALLEGATIONS

47. As alleged herein, Defendants are liable under the FLSA for willfully failing to properly compensate Dancers employed by Defendants during the three year period prior to commencement of this action, and as such, notice should be sent to past and present Dancers employed by Defendants during the three year period prior to initiation of this action, pursuant to 29 U.S.C. § 216(b).

48. As alleged herein, Defendants deprived Dancers of compensation to which they are entitled as a result of the following practices, decisions, and plans of Defendants:

- a. requiring Dancers and other employees to work without compensation;
- b. requiring Dancers and other employees to perform work without compensation during times for which they could not receive tips;
- c. refusing to compensate Dancers one and one half times minimum wage when their total hours worked exceeded 40 hours;
- d. requiring Dancers to share tips with non-tipped employees;

- e. requiring Dancers to pay fees for the right to work.
- f. requiring Dancers to work designated shifts;
- g. defining when Dancers could work based upon their perceived attractiveness. Workers who were perceived as more attractive by Defendants were forced to work at night. Workers who were perceived as less attractive by Defendants were forced to work day shifts; and
- h. fining Dancers when they missed an assigned shift or were forced to leave early.

49. Based thereon, Defendants have repeatedly and intentionally engaged in a similar practice, commonly and typically applied to the class of exotic dancers, of improperly depriving compensation to which such Dancers are entitled under the FLSA.

50. Questions that are common among the FLSA Collective Action members include, but are not limited to:

- a. whether Defendants have and continue to unlawfully refuse to pay proper compensation to Dancers in violation of the FLSA, 29 U.S.C. § 201, *et seq.*, for all work performed;
- b. whether Defendants have and continue to unlawfully refuse to pay Dancers proper overtime compensation, in violation of the FLSA, 29 U.S.C. § 201, *et seq.*, through the aforementioned policies and practices; and
- c. whether the failure of the Defendants to pay such proper compensation is willful within the meaning of the FLSA.

51. There are numerous, similarly situated current and former dancers employed by Defendants in venues owned and/or operated by Defendants who have been subject to the same policies and practices alleged herein, in violation of the FLSA, and who would benefit from the issuance of a Court-supervised notice of the present lawsuit and the opportunity to join in the present lawsuit. Those similarly situated employees are known to Defendants and are readily identifiable by Defendants' records.

52. The FLSA applied to Plaintiff and the Class at all times in which they worked at Red Dog because Defendants employed Plaintiff and each member of the Class under the FLSA and other applicable laws.

53. At all relevant times, Plaintiff and each member of the Class were employees of Defendants under the FLSA and the applicable state wage and hour laws.

54. No exceptions to the application of the FLSA or state wage and hour laws apply to Plaintiff or the Class. For example, no class member has ever been a professional or artist exempt from the provisions of the federal or state employment statutes. The exotic dancing performed by class members while working at Red Dog does not require invention, imagination, or talent in a recognized field of artistic endeavor, and Defendants never compensated class members on a set salary, wage, or fee basis.

55. Class members' sole source of income while working at Red Dog was tips that patrons provided in exchange for dances.

56. At all relevant times, Defendants were employers of all class members under the FLSA and state wage and hour laws. Defendants directed the work of class members

and, directly or indirectly, exercised significant control over the wages, hours, and working conditions of the Dancers in the Class.

57. Plaintiff consented to sue in this action pursuant to 29 U.S.C. § 216(b) and has executed a Notice of Consent. Additional potential collective action members may execute and file forms consenting to opt-in to join as a Plaintiff in the instant action. A copy of the “Notice of Consent” is attached hereto as Exhibit 1.²

58. Plaintiff, on behalf of herself and others similarly situated, both current and former employees, brings this collective action against Defendants under the FLSA, 29 U.S.C. § 201, *et seq.* for failure to pay minimum wage and overtime compensation.

59. Plaintiff and others similarly situated (the “FLSA Collective”) are individuals who are current and former employee-dancers of the Defendants within the meaning of the FLSA, 29 U.S.C. § 203(e)(1).

CLASS ACTION ALLEGATIONS

60. Plaintiff bring this lawsuit on behalf of herself and the proposed Class members under Fed. R. Civ. P. 23(b)(3). The proposed Class consists of all workers at Defendants’ Red Dog nightclub.

61. ***Numerosity.*** The members of the Class are so numerous that their individual joinder is impracticable.

² Jane Doe’s executed Notice of Consent has not been attached to this pleading due to her need for anonymity, but Plaintiff is willing to provide her Notice of Consent to Defendants’ counsel and this Court once a suitable protective order has been entered in this action.

62. ***Existence and Predominance of Common Questions of Law and Fact.***

Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting only individual Class members.

63. ***Typicality.*** Plaintiff's claims are typical of the claims of the members of the

Class and Plaintiff has the same claims as those of the other Class members.

64. ***Adequacy of Representation.*** Plaintiff will fairly and adequately protect the

interests of the members of the Class. Plaintiff has retained counsel highly experienced in complex consumer class action litigation and Plaintiff intend to prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to those of the Class.

65. ***Predominance and Superiority.*** The requirements of predominance and

superiority are met under Fed. R. Civ. P. 23(b)(3).

COUNT I

Failure to pay Wages in Violation of the Minimum Wage Provisions of FLSA

66. Plaintiff realleges and incorporates by reference the allegations contained in the paragraphs above as if fully set forth herein.

67. This claim arises from Defendants' willful violation of the FLSA for failure to pay a minimum wage to Plaintiff and the FLSA Collective.

68. At all times relevant, Defendants have been, and continue to be, an "employer" engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 201, *et seq.* Defendants have employed and continue to employ exotic dancers, including Plaintiff and members of the FLSA Collective, who engage or engaged in commerce or in the production of goods for

commerce. At all times relevant, upon information and belief, these Defendants have had annual gross sales or have done business in excess of \$500,000.00.

69. The minimum wage provisions of the FLSA apply to Defendants and protect Plaintiff and the FLSA Collective. Defendants were required to compensate all Dancers for all work performed as non-exempt employees.

70. Pursuant to the FLSA, 29 U.S.C. § 206, Plaintiff and the FLSA Collective were entitled to be compensated at a rate of \$7.25 per hour. The Dancers were employees of the Defendants and the Defendants were engaged in commerce.

71. Defendants were not allowed to avail themselves of the federal tipped minimum wage rate under the FLSA because Defendants provided no notice to Dancers of an intention to take a tip credit and because Dancers were required by Defendants to pool tips with non-tipped employees, specifically members of the management and staff of Red Dog.

72. Defendants, pursuant to its policies and practices, refused and failed to pay a minimum wage to Plaintiff and the FLSA Collective.

73. Such acts were committed knowingly and willfully, within the meaning of 29 U.S.C. § 255(a), with a conscious disregard for the rights of the Plaintiff and persons similarly situated under federal wage and hour laws, by which such acts have deprived the Plaintiff and persons similarly situated of their property and legal rights.

74. As a result of the aforementioned violations, Plaintiff and potential collective action members have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and have incurred expenses and

attorney's fees in seeking to compel Defendants to fully perform its obligations under the law, all to their respective damage in amounts according to proof at the time of trial, but in excess of the minimum jurisdiction of this Court.

75. Pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*, and including, 29 U.S.C. § 216(b), Plaintiff is legally entitled to recover unpaid wages at their regular rate, plus interest, liquidated damages, attorney's fees, and costs of suit.

COUNT II
Failure to Pay Overtime Wages in Violation of the Overtime Provisions of the FLSA
29 U.S.C. § 201, *et seq.*

76. Plaintiff realleges and incorporates by reference the allegations contained in the paragraphs above as if fully set forth herein.

77. Pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*, Defendants are and/or were required to compensate all non-exempt employees for all overtime work performed at a rate of pay not less than one and one half the regular rate of pay for work performed in excess of 40 hours in a work week.

78. Defendants, pursuant to their policies and practices, refused and failed to pay any wage at all to Plaintiff and the FLSA Collective, including failing to pay a rate of not less than one and one half the regular rate of pay when Plaintiff and the FLSA Collective worked in excess of 40 hours in a work week.

79. Such acts were committed knowingly and willfully, within the meaning of 29 U.S.C. § 255(a), and with a conscious disregard of the rights of the Plaintiff and persons similarly situated under federal wage and hour laws, and such acts have deprived Plaintiff and persons similarly situated of their property and legal rights.

80. As a result of the aforementioned violations, Plaintiff and potential collective action members have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and have incurred expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under the law, all to their respective damage in amounts according to proof at the time of trial, but in excess of the minimum jurisdiction of this Court.

81. Pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*, and including, 29 U.S.C. § 216(b), Dancers are legally entitled to recover unpaid balances of overtime compensation, plus interest, liquidated damages, attorney's fees, and costs of suit.

COUNT III
Violation of Oklahoma Wage and Hour Laws, O.S. tit. 40, § 160, 165.2, 197.1, *et seq.*
(Failure to pay Minimum Wages)

82. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs above as though fully set forth herein.

83. At all relevant times, Plaintiff and members of the Class were employees of the Defendants within the meaning of O.S. tit. 40, § 165.01(2).

84. At all relevant times, Defendants were employers of all members of the Class within the meaning of O.S. tit. 40, § 165.01(1).

85. The Oklahoma Minimum Wage Act requires that all employees be paid minimum wages by their employers. O.S. tit. 40, § 197.1 *et seq.*

86. Under Oklahoma law, an employer cannot give credit exceeding 50% for tips or gratuities towards meeting the minimum wage. Further, employers are not allowed to take any portion of an employee's tips.

87. Any agreement between an employee and employer that has the effect of an employee receiving less than minimum wage is invalid.

88. By requiring class members to share their tips with Defendants and/or their employees, Defendants violated Oklahoma law.

89. Defendants failed to pay Plaintiff and the Class any minimum wages for their labor during the relevant time period in violation of Oklahoma law. All unpaid minimum wages must be paid to the Class.

COUNT IV
Unjust Enrichment

90. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs above as though fully set forth herein.

91. Because of the unlawful conduct described herein, Defendants have been unjustly enriched at the expense of Plaintiff and the other members of the Class.

92. Specifically, Defendants' unfair and unlawful actions, as described herein, have enabled Defendants to receive money and other benefits in violation of the law at the expense of Plaintiff and the other members of the Class.

93. Defendants' receipt and retention of this financial benefit is unfair and improper under the circumstances.

94. As such, Defendants should be required to disgorge the money retained as a result of its unjust enrichment.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for:

A. Judgment against Defendants for an amount equal to Plaintiff's unpaid back wages, overtime pay, and unlawful kickbacks;

B. Judgment against Defendants for their willful violations of the various provisions of FLSA;

C. Enjoining Defendants and their employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parent or controlling entities, subsidiaries and all other persons acting in concert or participation with them from their unlawful acts.

D. Disgorgement of monies obtained through unjust enrichment.

E. An amount equal to the unpaid wages and kickback damages as liquidated damages;

F. An award of prejudgment interest;

G. All costs and attorney's fees incurred in prosecuting these claims;

H. Leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: February 22, 2017

Respectfully Submitted,

/s/ William B. Federman
William B. Federman (OBA #2853)
Joshua D. Wells (OBA #22334)

FEDERMAN & SHERWOOD
10205 N. Pennsylvania Avenue
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Attorneys for Plaintiff and the Class

EXHIBIT 1

I hereby consent and agree to join the above-captioned action brought under the Fair Labor Standards Act, 29 U.S.C. §201 et seq., as a named plaintiff. I have entered into a contingency fee agreement with Federman & Sherwood for the firm to represent me in this action.

I hereby agree to be bound by any adjudication of this action by the Court, whether it is favorable or unfavorable. I further agree to be bound by any settlement that may be negotiated by my attorneys and approved by the named plaintiff(s) (as may be substituted or amended) on behalf of all plaintiffs in this action.

Signature

February 22, 2017

Date

Printed Name

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jane Doe

(b) County of Residence of First Listed Plaintiff Oklahoma (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) William B. Federman, Joshua D. Wells, FEDERMAN & SHERWOOD, 10205 N. Pennsylvania Ave., Oklahoma City, OK 73120, 405-235-1560

DEFENDANTS

10TH STREET TAVERNS INC., d/b/a/ RED DOG CAFE, RAYMOND MACKEY, and JASON MACKEY

County of Residence of First Listed Defendant Oklahoma (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 201, et seq.

Brief description of cause: Failure by Defendants to pay minimum wage to employees in violation of the FLSA

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 1,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 02/21/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ William B. Federman

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Red Dog Café Dancers Allege Employee Misclassification](#)
