

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NAFEESA HILL, on behalf of herself and similarly situated employees,	:	
	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. _____
v.	:	
	:	
SRM ENTERPRISES, LLC,	:	
	:	
Defendant.	:	

COMPLAINT - CLASS/COLLECTIVE ACTION

INTRODUCTION

1. Plaintiff Nafeesa Hill (“Plaintiff”) worked as an exotic dancer at Vanity Grand Cabaret, a Southeast Philadelphia club owned and operated by Defendant SRM Enterprises, LLC (“Defendant”). In this “hybrid” class/collective lawsuit, Plaintiff alleges that Defendant has violated the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, et seq., the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§333.101, et seq., and the Pennsylvania Wage Payment and Collection Law (“PWPCCL”), 43 P.S. §§ 260.1, et seq.

2. Defendant will try to escape liability by asserting that Plaintiff and other dancers are not “employees” and, therefore, are not covered by the above statutes. As this Court has observed, however, the assertion that exotic dancers are not employees has been rejected “nearly without exception” in courthouses throughout the Nation. Verma v. 3001 Castor, Inc., 2014 U.S. Dist. LEXIS 88459, *17 n. 5 (E.D. Pa. June 30, 2014) (Brody, J.) (citing cases and quoting Hart v. Rick’s Cabaret Int’l, Inc., 967 F. Supp. 2d 901, 912-13 (S.D.N.Y. 20013)); see, e.g., McFeeley v. Jackson Street Entertainment, LLC, 825 F.3d 235 (4th Cir. 2016) (affirming judgment against adult entertainment club). Plaintiff respectfully submits that in this case – as in other cases – the Court should find her and her coworkers to be covered by federal and state

wage laws.

JURISDICTION AND VENUE

3. Jurisdiction over the FLSA claim is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

4. Jurisdiction over the PMWA and PWPCL claims is proper under 28 U.S.C. § 1367.

5. Venue is proper under 28 U.S.C. § 1391.

PARTIES

6. Plaintiff currently resides in Philadelphia, PA.

7. Plaintiff is an employee covered by the FLSA, PMWA, and PWPCL.

8. Defendant is a corporate entity headquartered in Philadelphia, PA.

9. Defendant employs individuals engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce by any person.

10. Defendant is an employer covered by the FLSA, PMWA, and PWPCL.

FACTS

11. Defendant currently owns and operates the Vanity Grand Cabaret (“the Club”), located at 6130 Passyunk Avenue, Philadelphia, PA 19148.

12. Defendant has owned and operated the Club for the past three years.

13. On its website, the Club purports to be “Philadelphia’s most exclusive multi-million dollar gentlemen’s club.”

14. During the past three years, at least 100 women have worked at the Club, performing activities such as, for example, on-stage exotic dancing and “personal couch dances”

with Club customers. These individuals will be referred to as “dancers.”

15. The work performed by the dancers is integral to Defendant’s business. Indeed, the Defendant’s advertisements emphasize the Club’s “beautiful” dancers and the entertainment they provide to Club customers.

16. Aspiring dancers can apply for a job by visiting the Club’s website page headed “**EMPLOYMENT**” (emphasis in original) and completing a simple job application.

17. The dancer position requires no specialized skill, training, or education.

18. The dancer position requires no significant investment of money or equipment by the dancers beyond the purchase and maintenance of performance outfits.

19. Plaintiff worked at the Club as a dancer until approximately early-April 2017.

20. Defendant does not pay any wages to Plaintiff or other dancers.

21. Defendant has never attempted to utilize the FLSA/PMWA’s “tip credit” provisions, which would require Defendant to directly pay dancers wages of at least \$2.13/hour under the FLSA and at least \$2.83 under the PMWA. *See* 29 U.S.C. § 203(m); 43 P.S. § 333.103(d). Moreover, because Defendant never actually utilized the FLSA/PMWA’s “tip credit” provisions, it made no attempt to notify Plaintiff or other dancers that they were covered by such provisions.

22. Plaintiff and other dancers receive all of their earnings directly from the Club’s customers. These customer payments do not constitute wages under the FLSA or PMWA. See, e.g., Verma v. 3001 Castor, Inc., 2016 U.S. Dist. LEXIS 164026, *15-17, 26-28 (E.D. Pa. June 30, 2014). Moreover, these customer payments are not included in the Club’s gross receipts.

23. At the Club, Defendant unilaterally determines and controls the work and earning opportunities of Plaintiff and other dancers. For example, Defendant has fixed the charge for a

“personal couch dance” at \$20 and has fixed the charge for a “15-Minute Champaign Court” dance at \$150.

24. Defendant requires Plaintiff and other dancers to follow strict work rules. For example, Defendant determines the order in which dancers must appear on stage. Once on stage, dancers cannot select their own dance music and must have their tops off by the second song.

25. Defendant subjects Plaintiff and other dancers to pay deductions. For example, dancers: (i) must pay Defendant \$100 if they miss their “stage rotation;” (ii) must pay “Minimum Rent” of between \$61 and \$151 per shift; (iii) must pay \$5 for every “Private Couch Dance;” (iv) must pay \$50 for every “15-Minute Champagne Court” dance; (v) must pay \$75 for every “30-Minute Champagne Court” dance; and (vi) must pay \$100 for every “VIP Court” dance.

26. Defendant, upon information and belief, has neither sought nor obtained the approval of the Pennsylvania Department of Labor and Industry for any of the pay deductions charged to Plaintiff and other dancers.

COLLECTIVE AND CLASS ALLEGATIONS

27. Plaintiff brings her FLSA claim pursuant to 29 U.S.C. § 216(b) on behalf of herself and all individuals who, during any time within the past three years, worked at the Club as dancers.

28. Plaintiff’s FLSA claim should proceed as a collective action because she and other dancers, having worked pursuant to the common compensation and deduction practices summarized herein, are “similarly situated” as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law.

29. Plaintiff brings her PMWA and PWPCl claims pursuant to Federal Rule of Civil Procedure 23 on behalf of all individuals who, during any time within the past three years,

worked at the Club as dancers.

30. The class, upon information and belief, includes at least 100 individuals, all of whom are readily ascertainable based on Defendant's standard business records, and, as such, is so numerous that joinder of all class members is impracticable.

31. Plaintiff is a class member, her claims are typical of the claims of other class members, and she has no interests that are antagonistic to or in conflict with the interests of other class members.

32. Plaintiff will fairly and adequately represent the class members and their interests, and she has retained competent and experienced counsel who will effectively represent the class members' interests.

33. Questions of law and fact are common to all class members, since, inter alia, this action concerns the legality of Defendant's standardized compensation and deduction practices summarized herein.

34. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over any questions affecting only Plaintiff and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

COUNT I
(Alleging Violations of the FLSA)

35. All previous paragraphs are incorporated as though fully set forth herein.

36. The FLSA entitles employees to a minimum hourly wage of \$7.25.

37. As statutory employees, Plaintiff and other dancers were entitled to this minimum hourly wage.

38. By failing to pay any wages to Plaintiff and other dancers, Defendant has acted

willfully and with reckless disregard of the FLSA.

COUNT II
(Alleging Violations of the PMWA)

39. All previous paragraphs are incorporated as though fully set forth herein.

40. The PMWA entitles employees to a minimum hourly wage of \$7.25.

41. As statutory employees, Plaintiff and other dancers were entitled to this minimum hourly wage.

42. By failing to pay any wages to Plaintiff and other dancers, Defendant violated the PMWA.

COUNT III
(Alleging Violations of the PWPCL)

43. All previous paragraphs are incorporated as though fully set forth herein.

44. The PWPCL prohibits pay deductions except for those explicitly permitted by law or regulation, none of which apply to this lawsuit. *See* 43 P.S. § 260.3; 34 Pa. Code § 9.1.

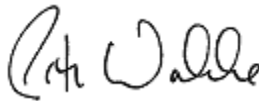
45. Defendant violated the PWPCL by imposing impermissible pay deductions on Plaintiff and other dancers.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and other members of the class/collective, seeks the following relief:

- A. Unpaid minimum wages of \$7.25 for every worked;
- B. Reimbursement of all improper pay deductions;
- C. Prejudgment interest;
- D. Liquidated damages to the fullest extent permitted under the FLSA and PWPCL;
- E. Litigation costs, expenses, and attorneys' fees; and

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



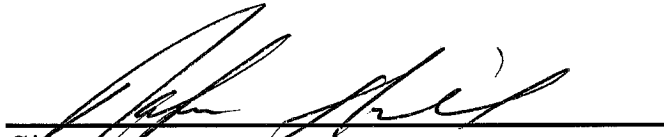
Date: April 25, 2017

Peter Winebrake
R. Andrew Santillo
Mark J. Gottesfeld
WINEBRAKE & SANTILLO, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Phone: (215) 884-2491

Attorneys for Plaintiff

CONSENT TO BECOME PARTY PLAINTIFF

I hereby consent, pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), to become a party plaintiff in the accompanying FLSA action. I understand that I will be bound by the judgment of the Court on all issues in this case.



Signature

NATESSA HILL

Name (Please Print Clearly)

17-0-1927

JS (Rev. 8/17)

MAK

CIVIL COVER SHEET

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 the 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
NAFEESA HILL, on behalf of herself and similarly situated employees

DEFENDANTS
SRM ENTERPRISES, LLC

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

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Peter Winebrake, Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025: (215) 884-2491.

Attorneys (If Known)

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

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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):
Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq.

Brief description of cause:

Failure to pay minimum wage under federal and state law; improper pay deductions under state law.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

S.T.

DATE 4/25/17

SIGNATURE OF ATTORNEY OF RECORD

Peter Winebrake

APR 27 2017

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

MAK

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 7145 Keystone Street, Philadelphia, PA 19135

Address of Defendant: 6130 Passyunk Avenue, Philadelphia, PA 19153

Place of Accident, Incident or Transaction: 613 Passyunk Avenue, Philadelphia, PA 19153
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No **UNKNOWN**

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases

11. All other Federal Question Cases
(Please specify) FAIR LABOR STANDARDS ACT

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, PETER WINDBRAKE, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought

DATE: 4/25/17

Peter Windbrake
Attorney-at-Law

80496
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

APR 27 2017

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/25/17

Peter Windbrake
Attorney-at-Law

80496
Attorney I.D.#

MAK

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

NAFEESA HILL

CIVIL ACTION

v.

SRM ENTERPRISES, LLC

NO.

17 1927

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

PETER WINEBRAKE

4/25/17
Date

Peter Winebrake
Attorney-at-law

PLAINTIFF
Attorney for

215-884-2492
Telephone

215-884-2492
FAX Number

pwinebrake@winebrakelaw.com
E-Mail Address

APR 27 2017

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Fmr. Exotic Dancer Hits SRM Enterprises with Wage and Hour Lawsuit](#)
