

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

CASSANDRA PRZENKOP,
Individually, and on behalf of all
others similarly situated,
Plaintiffs

vs.

Case No

TC PAYROLL, LLC,
a Florida Corporation
d/b/a Dunkin Donuts, and
IGOR PIMENTEL, an individual
Defendants.

COMPLAINT

COMES NOW the Plaintiff, CASSANDRA PRZENKOP, individually, and on behalf of all others similarly situated, and files this Complaint for violation of the Fair Labor Standards Act and states as follows:

JURISDICTION

Jurisdiction in this Court is proper as this claim is for failure to pay overtime and unlawful retaliation brought pursuant to the Fair Labor Standards Act, as amended ("FLSA") 29 U.S.C. §201, et.seq.

VENUE

Venue is proper in this Court as the Plaintiff resides within the Southern District of Florida and Defendants maintain business operations within the District.

PARTIES

1. Plaintiff was employed as Store Manager of Defendants from August 2016 until January 13, 2018.
2. While working for Defendants, Plaintiff was an “employee” within the meaning of the FLSA.
3. Plaintiff’s immediate supervisor was, at the time of her employment, Defendant Igor Pimentel. Defendant Pimentel is a person who acted directly in the interest of Defendant TC Payroll in relation to Plaintiff and, therefore, was an “employer” within the meaning of the FLSA.
4. During Plaintiff’s employment, Defendant TC Payroll, LLC. was and continues to be engaged in business in Martin County, Florida.
5. Defendant TC Payroll, LLC. is an employer as defined by 29 U.S.C. §201, et.seq.
6. During Plaintiff’s employment, Defendant TC Payroll, LLC. was, and continues to be, an “enterprise engaged in commerce” within the meaning of the FLSA.
7. Based on information and belief, the annual gross revenue of Defendant TC Payroll, LLC. is in excess of \$500,000.00 per annum.
8. While employed by Defendants, Plaintiff was “engaged in commerce” and subject to individual coverage under the FLSA.
9. The individuals who may become Plaintiffs in this collective action are Store Managers of Dunkin Donuts franchises owned by the same owners that own TC Payroll.

FACTUAL ALLEGATIONS

10. While Plaintiff Przenkop title was Store Manager, she did not meet the requisite duties to be exempt from the payment of overtime under the law. Additionally, on more than one occasion, Defendant Pimentel made improper deductions from her salary.
11. Plaintiff was improperly treated as exempt from overtime and was scheduled to work at least 48 hours per week, sometimes exceeding that number of hours. During her initial months of employment, Plaintiff worked as much as 60 hours per week.
12. Although Plaintiff had certain managerial duties, most of her time was spent performing the same tasks as other employees who were non-exempt.
13. There were numerous times that Plaintiff had to work late to be able to perform her managerial duties.
14. Plaintiff was told that she had the authority to hire and fire employees, however, her decisions were overturned on several occasions.
15. Plaintiff was given a set number of hours from which she could assign employees to work schedules.
16. Plaintiff was responsible for ordering supplies to ensure that her location was stocked, but on numerous occasions Defendant Pimentel cut the order that Plaintiff placed.
17. In addition to serving customers, Plaintiff was assigned non-managerial duties by Defendant Pimentel. For example, in the document supporting Plaintiff's termination, Defendant Pimentel directed Plaintiff to stock the coffee display before she left the store, which Plaintiff failed to complete that day.

18. Plaintiff attempted to resolve this matter informally without litigation but was not successful.

COUNT 1 FLSA OVERTIME CLAIM

The foregoing paragraphs are hereby incorporated by reference into this Count.

19. The FLSA mandates that employers compensate non-exempt employees at time and one-half the employee's regular rate for all hours worked in excess of 40 hours in a work week.

20. The FLSA 29 U.S.C. 13(a)(1) provides an exemption from overtime for executive employees.

21. Plaintiff's primary duty was not management.

22. Plaintiff had improper deductions made from her salary on more than one occasion.

23. Plaintiff did not meet the exemption and should have been paid overtime.

WHEREFORE, Plaintiff, seeks judgment against the Defendant as follows:

- a. That this Court certify that action as a collection action pursuant to 29 U.S.C. §216(b);
- b. An award of compensatory damages for the unpaid overtime wages owed to Plaintiff pursuant to 29 U.S.C. §216(b);
- c. An award of liquidated damages in the amount equal to the award of compensatory damages pursuant to 29 U.S.C. §216(b);
- d. Judgment that Defendants' violations were willful;
- e. An award of reasonable attorney's fees and costs incurred by Plaintiff in bringing this action; and

f. All such further relief as the Court deems just and equitable.

COUNT 2 RETALIATION

The foregoing paragraphs are hereby incorporated by reference into this Count.

24. On January 5, 2018, Plaintiff complained to Defendant Pimentel about an improper deduction from her salary.

25. On or about January 10, 2018, Plaintiff contacted the Department of Labor to inquire about the legality of withholding a portion of Plaintiff's salary due to absences, specifically when there was a doctor's excuse. Plaintiff was advised she could file a complaint with the Department of Labor as such a deduction was not proper.

26. On January 12, 2018, Plaintiff complained about an improper deduction from her salary due to an illness for which she provided a medical excuse. During the same phone call, Plaintiff advised Defendant Pimentel that she had contacted the Department of Labor and been advised that such a deduction was not legal.

27. On January 13, 2018, Defendant Pimentel terminated Plaintiff's employment.

28. Plaintiff was terminated for complaining about illegal deductions from her salary.

29. Defendants' retaliation caused Plaintiff emotional distress.

WHEREFORE, as a result of Defendants' willful violations of the FLSA, Plaintiff Przenkop is entitled to recover back pay, front pay, damages for emotional distress, mental anguish, costs and attorney's fees plus liquidated damages.

JURY DEMAND

Plaintiff, hereby demands a trial by jury.

Dated: July 10, 2018

Respectfully submitted,

/s/Beth Coke

Beth Coke

Coke Employment Law

131 N. 2nd Street, Suite 204

Fort Pierce, Fl. 34950

Telephone: (772) 252-4230

Facsimile: (772) 252-4575

Attorney for Plaintiffs

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS CASSANDRA PRZENKOP, Individually, and on behalf of all others similarly situated + DEFENDANTS TC PAYROLL, LLC, a Florida Limited Liability Company

(b) County of Residence of First Listed Plaintiff MARTIN COUNTY (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant MARTIN COUNTY (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Coke Employment Law 131 N. 2nd Street, Suite 204 + Attorneys (If Known) BETH COKE

(d) Check County Where Action Arose: [] MIAMI-DADE [] MONROE [] BROWARD [] PALM BEACH [x] MARTIN [] ST. LUCIE [] INDIAN RIVER [] OKEECHOBEE [] HIGHLANDS

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

Form with checkboxes for Basis of Jurisdiction (Federal Question, Diversity) and Citizenship of Principal Parties (Citizen of This State, Citizen of Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions

Large grid of checkboxes for Nature of Suit categories: CONTRACT, REAL PROPERTY, PERSONAL INJURY, 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) [x] 1 Original Proceeding [] 2 Removed from State Court [] 3 Re-filed (See VI below) [] 4 Reinstated or Reopened [] 5 Transferred from another district (specify) [] 6 Multidistrict Litigation Transfer [] 7 Appeal to District Judge from Magistrate Judgment [] 8 Multidistrict Litigation - Direct File [] 9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case [] YES [x] NO b) Related Cases [] YES [x] NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION (FLSA) 29 U.S.C. 201 Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: [] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [x] Yes [] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE July 9, 2018 SIGNATURE OF ATTORNEY OF RECORD [Signature]

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

UNITED STATES DISTRICT COURT

for the

Cassandra Przenkop

Plaintiff/Petitioner

TC Payroll, LLC v. Igor Pimentel
 Defendant/Respondent

Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
 (Long Form)

Affidavit in Support of the Application

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.

Signed:



Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date:

6-25-18

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 2000	\$	\$ 2000	\$
Self-employment	\$	\$	\$	\$
Income from real property (such as rental income)	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

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Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
Total monthly income:	\$	0.00	\$	0.00
	\$	0.00	\$	0.00
	\$	0.00	\$	0.00
	\$	0.00	\$	0.00

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Branigan Detox	950 N Fed Hwy STE 115	JUNE - Current	\$ 2,000
Dunkin Donuts	PO Box 0, Beach FL Palm City	8/16 - 01/18	\$ 2440

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ \$30

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
TD Bank	Checking	\$ 300	\$
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

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5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Assets owned by you or your spouse	
Home (Value)	\$
Other real estate (Value)	\$
Motor vehicle #1 (Value)	\$ 500
Make and year: 1998 Dodge	
Model: 1500 Pickup	
Registration #:	
Motor vehicle #2 (Value)	\$
Make and year:	
Model:	
Registration #:	
Other assets (Value)	\$
Other assets (Value)	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)	Relationship	Age

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8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$ 204 8000	\$
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$ 415	\$
Home maintenance <i>(repairs and upkeep)</i>	\$	\$
Food	\$ 200	\$
Clothing	\$ 200	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation <i>(not including motor vehicle payments)</i>	\$ 80	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$ 80	\$
Other:	\$	\$
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$	\$
Installment payments		
Motor vehicle:	\$	\$
Credit card <i>(name):</i>	\$ 100	\$
Department store <i>(name):</i>	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

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Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$	\$
Other (specify):	\$	\$
Total monthly expenses:	\$ 1779 0.00	\$ 0.00

1779.00

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?
 Yes No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit? Yes No
 If yes, how much? \$ _____

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

12. Identify the city and state of your legal residence.

Stuart, Fla.

Your daytime phone number: 772 634 5374

Your age: 42 Your years of schooling: Some College

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

CASSANDRA PRZENKOP,
Individually, and on behalf of all
others similarly situated,

Plaintiff(s)

v.

TC PAYROLL, LLC,
a Florida Corporation
d/b/a Dunkin Donuts, and
IGOR PIMENTEL, an individual

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Igor Pimentel
1308 S.E. Sea Oat Lane
Stuart, Fl. 34996

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Beth Coke
Coke Employment Law
131 N. 2nd Street, Suite 204
Fort Pierce, Fl. 34950

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

CASSANDRA PRZENKOP,
Individually, and on behalf of all
others similarly situated,

Plaintiff(s)

v.

TC PAYROLL, LLC,
a Florida Corporation
d/b/a Dunkin Donuts, and
IGOR PIMENTEL, an individual

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) TC Payroll, LLC.
c/o James E. Allen
2642 S. E. Willoughby Blvd.
Stuart, Fl. 34994

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Beth Coke
Coke Employment Law
131 N. 2nd Street, Suite 204
Fort Pierce, Fl. 34950

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Dunkin Donuts Employee Sues for Allegedly Unpaid Overtime, Retaliation](#)
