

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**ANGELA EVANS, on behalf of herself  
and on behalf of all others  
similarly situated,**

**Plaintiff,**

**Case No.:**

**v.**

**SOUTHERN STAR RESTAURANT MANAGEMENT, INC  
d/b/a DUNKIN DONUTS & BASKIN ROBBINS,**

**Defendant.**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, ANGELA EVANS (“Plaintiff”), by and through undersigned counsel, on behalf of herself and on behalf of all others similarly situated, brings this action against Defendant, SOUTHERN STAR RESTAURANT MANAGEMENT, INC d/b/a DUNKIN DONUTS & BASKIN ROBBINS (“Defendant”), and in support of her claims states as follows:

**JURISDICTION AND VENUE**

I. This is an action for damages under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 et seq., for failure to pay overtime wages under 29 U.S.C. § 215(a)(3) and for violations of the Family and Medical Leave Act of 1993, as amended, 29 U.S.C. § 2601 et seq. (“FMLA”). Count I of this Complaint is filed as a collective action under 29 U.S.C. § 216(b).

2. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. § 201 et seq.

3. Venue is proper in the Middle District of Florida, because all of the events giving rise to these claims occurred in Hillsborough County, Florida.

### **PARTIES**

4. Plaintiff is a resident of Hillsborough County, Florida.

5. Defendant operates a restaurant in Tampa, in Hillsborough County, Florida.

### **GENERAL ALLEGATIONS**

6. Plaintiff has satisfied all conditions precedent, or they have been waived.

7. Plaintiff has hired the undersigned attorneys and agreed to pay them a fee.

8. Plaintiff requests a jury trial for all issues so triable.

9. At all times material hereto, Named Plaintiff ANGELA EVANS was employed by Defendant as a shift leader.

10. At all times material hereto, Plaintiff and the similarly situated employees were “engaged in the production of goods” for commerce within the meaning of Sections 6 and 7 of the FLSA, and as such were subject to the individual coverage of the FLSA.

11. At all times material hereto, Plaintiff and the similarly situated employees were “employees” of Defendant within the meaning of the FLSA.

12. At all times material hereto, Defendant was an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d).

13. Defendant continues to be an “employer” within the meaning of the FLSA.

14. At all times material hereto, Defendant was and continues to be an enterprise covered by the FLSA, as defined under 29 U.S.C. §§ 203(r) and 203(s).

15. At all times relevant to this action, Defendant engaged in interstate commerce within the meaning of the FLSA, 29 U.S.C. § 203(s).

16. At all times relevant to this action, the annual gross sales volume of Defendant exceeded \$500,000 per year.

17. At all times material hereto, the work performed by Plaintiff and the similarly situated employees was directly essential to the business performed by Defendant.

18. At the time of these events, Plaintiff was an employee of Defendant, and she worked at least 1250 hours in the 12 months preceding her request for leave under the FMLA.

19. Thus, Plaintiff is an “eligible employee” within the meaning of the FMLA, 29 U.S.C. § 2611(2).

20. Defendant is an “employer” within the meaning of the FMLA, 29 U.S.C. § 2611(4).

### **FACTS**

21. Named Plaintiff ANGELA EVANS began working for Defendant as a shift leader in May 2016, and she continues to work in this capacity.

22. At various times material hereto, Plaintiff and the similarly situated employees worked hours in excess of forty (40) hours within a work week for Defendant, and they were entitled to be compensated for these overtime hours at a rate equal to one and one-half times their individual regular hourly rates.

23. Defendant failed to pay Plaintiff and the similarly situated employees an overtime premium for all of the overtime hours that they worked, in violation of the FLSA.

24. Specifically, Defendant's General Manager, Deborah Coddington, was altering Plaintiff and the similarly situated employee's time cards.

25. During her employment, Plaintiff observed Ms. Coddington say, "I'm not wasting labor on these people."

26. In March 2017, Plaintiff complained to Defendant about its failure to properly pay her and the similarly situated employee an overtime premium.

27. By failing to accurately record, report, and/or preserve records of hours worked by Plaintiff and the similarly situated employees, Defendant has failed to make, keep, and preserve records with respect to each of its employees in a manner sufficient to determine their wages, hours, and other conditions of employment, including Defendant's employment practices, in violation of the FLSA, 29 U.S.C. § 201 et seq.

28. Defendant's actions were willful, and showed reckless disregard for the provisions of the FLSA.

29. In July 2017, Plaintiff notified Defendant that she required time off to care for her father because he suffered from a serious health condition within the meaning of the FMLA.

30. Defendant failed to offer Plaintiff FMLA leave or otherwise notify her of her rights under the FMLA.

31. In retaliation for her request for leave to care for her father, Defendant cut Plaintiff's hours.

32. By requesting time off to care for her father Plaintiff exercised and/or attempted to exercise her rights under the FMLA.

33. By cutting Plaintiff's hours, Defendant violated Plaintiff's rights under the FMLA.

### **COLLECTIVE ACTION ALLEGATIONS**

34. Plaintiff brings this case as an "opt-in" collective action on behalf of similarly situated employees of Defendant pursuant to 29 U.S.C. § 216(b). The collective action is composed of employees whom Defendant failed to compensate for all overtime hours worked in accordance with the FLSA.

35. Therefore, Notice is properly sent to: "All employees whom Defendant failed to compensate for all of the overtime hours that they worked from the three years preceding the filing of this complaint to the present."

36. The total number and identities of the similarly situated employees may be determined from the records of Defendant, and the similarly situated employees may easily and quickly be notified of the pendency of this action.

37. Plaintiff and the similarly situated employees have been unlawfully denied full payment of their overtime wages as mandated by the FLSA.

38. Plaintiff's experience with Defendant's payroll practices is typical of the experiences of the similarly situated employees.

39. Defendant's failure to pay all overtime wages due at the rates required by the personal circumstances of the named Plaintiff or the similarly situated employees is common to both.

40. Overall, Plaintiff's experience is typical of that of the similarly situated employees.

41. Specific job titles or job duties of the similarly situated employees do not prevent collective treatment.

42. Although the issues of damages can be individual in character, there remains a common nucleus of operative facts concerning Defendant's liability under the FLSA in this case.

### **COUNT I – FLSA OVERTIME VIOLATIONS**

43. Plaintiff realleges and readopts the allegations of Paragraphs 1 through 28 and 34 through 42 of this Complaint, as fully set forth herein. Plaintiff brings this action on behalf of herself and all other similarly situated employees in accordance with 29 U.S.C. § 216(b). Plaintiff anticipates that as this case proceeds, other individuals will sign consent forms and join this collective action as plaintiffs.

44. During the statutory period, Plaintiff and the similarly situated employees worked overtime hours while employed by Defendant, and they were not properly compensated for all of these hours under the FLSA.

45. Defendant failed to compensate Plaintiff and the similarly situated employees for all of the overtime hours that Plaintiff and they worked.

46. The similarly situated employees are similarly situated because they were all employed by Defendant, were compensated in the same manner, and were all subject to Defendant's common policy and practice of failing to pay its employees for all of the overtime hours that they worked in accordance with the FLSA.

47. This reckless practice violates the provisions of the FLSA, specifically 29 U.S.C. § 207(a)(1). As a result, Plaintiff and the similarly situated employees who have opted into this action are each entitled to an amount equal to their unpaid overtime wages as liquidated damages.

48. All of the foregoing conduct, as alleged, constitutes a willful violation of the FLSA, within the meaning of 29 U.S.C. § 255(a).

49. As a result of the foregoing, Plaintiff and the similarly situated employees have suffered damages.

**WHEREFORE**, Plaintiff and all similarly situated employees who join this collective action demand:

- (a) Designation of this action as a collective action on behalf of the Plaintiff and the similarly situated employees that she seeks to represent, in accordance with the FLSA;
- (b) Prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA putative collective action, apprising them of the pendency of this action and permitting them to assert timely FLSA claims in this action by filing individual consent to sue forms pursuant to 29 U.S.C. § 216(b);
- (c) Equitable tolling of the statute of limitations from the date of the filing of this complaint until the expiration of the deadline for filing consent to sue forms under 29 U.S.C. § 216(b);

- (d) Leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by this Court;
- (e) Judgment against Defendant for an amount equal to the unpaid overtime wages of Plaintiff and of opt-in similarly situated employees at the applicable overtime rate;
- (f) A declaratory judgment stating that the practices complained of herein are unlawful under the FLSA;
- (g) Judgment against Defendant for an amount equal to the unpaid back wages of Plaintiff and of opt-in similarly situated employees at the applicable overtime rate as liquidated damages;
- (h) Judgment against Defendant, stating that its violations of the FLSA were willful;
- (i) To the extent liquidated damages are not awarded, an award of prejudgment interest;
- (j) All costs and attorney's fees incurred in prosecuting these claims; and
- (k) For such further relief as this Court deems just and equitable.

**COUNT II – FMLA INTERFERENCE**

*brought by Plaintiff only*

50. Plaintiff realleges and readopts the allegations of paragraphs 1 through 8, 18 through 20, and 29 through 33 of this Complaint, as fully set forth herein.

51. Plaintiff required time off from work to care for her father, because he suffered from a serious health condition within the meaning of the FMLA, requiring leave protected under the FMLA.



52. By failing to offer Plaintiff FMLA leave or otherwise notifying of her rights under the FMLA and then cutting her hours, Defendant interfered with Plaintiff's FMLA rights, in violation of 29 U.S.C. §§ 2614(a)(1)(A) and 2615(a)(2).

53. Defendant's actions were willful and done with malice.

54. Plaintiff was injured due to Defendant's violations of the FMLA, for which Plaintiff is entitled to legal and injunctive relief.

**WHEREFORE**, Plaintiff demands:

- a) That this Court enter a judgment that Defendant interfered with Plaintiff's rights in violation of the FMLA;
- b) An injunction restraining continued violation of the FMLA by Defendant;
- c) Compensation for lost wages, benefits, and other remuneration;
- d) Reinstatement of Plaintiff to a position comparable to Plaintiff's prior position with back pay plus interest, pension rights and all benefits, or, in the alternative, the entry of a judgment under 29 U.S.C. § 2617(a)(1)(A)(i)(II), against Defendant and in favor of Plaintiff, for the monetary losses that Plaintiff suffered as a direct result of Defendant's violations of the FMLA;
- e) Front pay;
- f) Liquidated Damages;
- g) Prejudgment interest on all monetary recovery obtained;
- h) All costs and attorney's fees incurred in prosecuting these claims; and

- i) For such further relief as this Court deems just and equitable.

**COUNT II – FMLA RETALIATION**  
*brought by Plaintiff only*

55. Plaintiff realleges and readopts the allegations set forth in Paragraphs 1 through 8, 18 through 20, and 29 through 33 of this Complaint, as fully set forth herein.

56. Plaintiff required time off from work to care for her father, because he suffered from a serious health condition within the meaning of the FMLA, requiring leave protected under the FMLA.

57. Plaintiff engaged in protected activity under the FMLA by exercising and/or attempting to exercise her FMLA rights.

58. Defendant retaliated against Plaintiff for engaging in protected activity under the FMLA by cutting her hours.

59. Defendant's actions were willful and done with malice.

60. Plaintiff was injured by Defendant's violations of the FMLA, for which Plaintiff is entitled to legal and injunctive relief.

***WHEREFORE***, Plaintiff demands:

- (a) That this Court enter a judgment that Defendant retaliated against Plaintiff in violation of the FMLA;
- (b) An injunction restraining continued violation of the FMLA by Defendant;
- (c) Compensation for lost wages, benefits, and other remuneration;

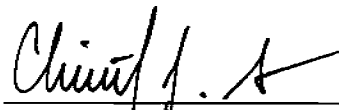
- (d) Reinstatement of Plaintiff to a position comparable to Plaintiff's prior position with back pay plus interest, pension rights and all benefits or, in the alternative, entry of a judgment under 29 U.S.C. § 2617(a)(1)(A)(i)(II), against Defendant and in favor of Plaintiff, for the monetary losses Plaintiff suffered as a direct result of Defendant's violations of the FMLA;
- (e) Front pay;
- (f) Liquidated Damages;
- (g) Prejudgment interest on all monetary recovery obtained;
- (h) All costs and attorney's fees incurred in prosecuting these claims; and
- (i) For such further relief as this Court deems just and equitable.

**JURY TRIAL DEMAND**

Plaintiff demands trial by jury as to all issues so triable.

Dated this 6<sup>th</sup> day of December, 2017.

Respectfully submitted,



**CHRISTOPHER J. SABA**

Florida Bar Number: 0092016

**WENZEL FENTON CABASSA, P.A.**

1110 North Florida Avenue, Suite 300

Tampa, Florida 33602

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**Attorneys for Plaintiff**

JS 44 (Rev. 12/12)

### 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**

ANGELA EVANS, on behalf of herself and on behalf of all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
CHRISTOPHER J. SABA, WENZEL FENTON CABASSA, P.A., 1110 North Florida Avenue, Suite 300, Tampa, Florida 33602, Main No.: 813-224-0431

**DEFENDANTS**

SOUTHERN STAR RESTAURANT MANAGEMENT, INC d/b/a DUNKIN DONUTS & BASKIN ROBBINS,

County of Residence of First Listed Defendant Hillsborough  
(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
- 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)

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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <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
				<b>PROPERTY RIGHTS</b>	
				<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
			<b>LABOR</b>	<b>SOCIAL SECURITY</b>	
			<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	<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 XVII <input type="checkbox"/> 865 RSI (405(g))	
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>IMMIGRATION</b>	<b>FEDERAL TAX SUITS</b>	
<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	<b>Habeas Corpus:</b> <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 <b>Other:</b> <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	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**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

**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., 29 U.S.C. § 2601 et seq., and 29 U.S.C. § 216(b)  
 Brief description of cause:  
**FLSA OVERTIME VIOLATIONS, FMLA INTERFERENCE and RETALIATION and COLLECTIVE ACTION**

**VII. REQUESTED IN COMPLAINT:**

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

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 12.06.17 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING TFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Tampa Dunkin Donuts/Baskin Robbins Operator Facing Unpaid Overtime Allegations in Suit](#)

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