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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

JENNIFER HARRISON, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

1-800-FLOWERS TEAM SERVICES, INC.,
1-800-FLOWERS SERVICE SUPPORT
CENTER, INC., and 1-800-FLOWERS.COM,
INC.,

Defendants.

Case No. 1:18-cv-00410

**CLASS AND COLLECTIVE ACTION
ALLEGATION COMPLAINT**

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff Jennifer Harrison (“Plaintiff”) brings this lawsuit on behalf of herself and all similarly situated individuals as a collective action under Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), against Defendants 1-800-Flowers Team Services, Inc., 1-800-Flowers Service Support Center, Inc., and 1-800-Flowers.com, Inc. (collectively, “1-800-Flowers”). Plaintiff also asserts a claim under the Oregon wage statutes and implementing

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regulations against 1-800-Flowers, both as a supplemental claim on behalf of herself and similarly situated employees who opt into this action pursuant to 29 U.S.C. § 216(b) and as a class claim pursuant to Rule 23 of the Federal Rules of Civil Procedure. Plaintiff and those she seeks to represent pursuant to 29 U.S.C. § 216(b) and Fed. R. Civ. P. 23 are current and former 1-800-Flowers employees who handled calls at its Medford, Oregon call center. Plaintiff seeks to recover all available damages for 1-800-Flowers's failure to pay all wages owed to her and those she seeks to represent under the FLSA and Oregon state law.

2. 1-800-Flowers has a common policy and practice of failing to pay its call center workers for all time worked. 1-800-Flowers expects call center workers to adhere strictly to their schedules by, among other things, clocking in and out at scheduled times, taking paid and unpaid breaks when scheduled, and spending as much of their scheduled shift as possible available to handle phone calls. In order to meet these expectations, 1-800-Flowers's call center workers spend time each shift performing work activities without compensation.

3. Specifically, 1-800-Flowers's call center workers perform off-the-clock work activities without pay prior to clocking in at the beginning of their scheduled shifts, during the beginning and end of their 30-minute unpaid meal breaks, after clocking out at the end of their scheduled shifts, and at various other times during their shifts when they are clocked out for pay purposes. For example, some of this off-the-clock work includes work activities before their paid shifts begin, including, without limitation, activities related to the operation of their computers. Moreover, when the phones crash or call center workers are otherwise logged out of the phones while performing work activities, 1-800-Flowers does not compensate workers for this time. Through these policies and practices, 1-800-Flowers deliberately fails to pay its employees for all time worked, including overtime, in willful violation of the FLSA and Oregon state law.

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4. On behalf of herself and those she seeks to represent, Plaintiff seeks relief for, *inter alia*, unpaid wages, liquidated damages, penalties, prejudgment interest, costs, and attorney's fees.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over Plaintiff's FLSA claims under 28 U.S.C. § 1331 and 29 U.S.C. §§ 201, *et seq.*

6. This Court has supplemental jurisdiction over Plaintiff's Oregon state law claims under 28 U.S.C. § 1367 because the state law claims are so related to the FLSA claims that they form part of the same case or controversy.

7. Venue for this action properly lies in the District of Oregon, pursuant to 28 U.S.C. § 1391, because 1-800-Flowers conducts business in this judicial district, is subject to the Court's personal jurisdiction, and resides in this district pursuant to 28 U.S.C. § 1391(c)(2).

PARTIES

8. Plaintiff Harrison resides in Tillamook, Tillamook County, Oregon. Plaintiff worked for 1-800-Flowers as a customer service representative at its Medford, Oregon call center from about October 2014 through about May 2015, from about September 2015 through about December 2015, and from about October 2016 through about December 2016.

9. Defendant 1-800-Flowers Team Services, Inc. is a Delaware Corporation doing business in Medford, Jackson County, Oregon. Its principal office is located at 1 Old Country Road, Suite 500, Carle Place, New York, 11514.

10. Defendant 1-800-Flowers Service Support Center, Inc. is a New York Corporation doing business in Medford, Jackson County, Oregon. Its principal office is located at 1 Old Country Road, Suite 500, Carle Place, New York, 11514.

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11. Defendant 1-800-Flowers.com, Inc. is a Delaware Corporation doing business in Medford, Jackson County, Oregon. Its principal office is located at 1 Old Country Road, Suite 500, Carle Place, New York, 11514.

12. At all relevant times, 1-800-Flowers has been regularly engaged in interstate commerce.

13. At all relevant times, 1-800-Flowers has been an enterprise within the meaning of § 3(r) and § 3(s)(1) of the FLSA, 29 U.S.C. §§ 203(r) & (s).

14. At all relevant times, 1-800-Flowers has been an employer within the meaning of the FLSA, 29 U.S.C. §§ 203, 206-07.

FACTS

15. 1-800-Flowers operates call centers across the United States, including in Oregon. It employs thousands of individuals in its call centers to handle calls on behalf of the 1-800-Flowers.com, Inc. Family of Brands (for example, Harry & David, FruitBouquets.com, The Popcorn Factory, etc.) (referred to herein as “call center workers”).

16. Plaintiff and the similarly situated employees she seeks to represent are call center workers at 1-800-Flowers’s Medford, Oregon call center who spend the majority of their work time on the phone handling calls on behalf of the 1-800-Flowers.com, Inc. Family of Brands (for example, Harry & David, FruitBouquets.com, The Popcorn Factory, etc.).

17. 1-800-Flowers classifies Plaintiff and its other call center workers as “non-exempt” under the FLSA and pays them on an hourly basis, plus announced commissions, nondiscretionary bonuses, and/or other payments in the form of goods or facilities rather than cash. These payments constitute payments for hours worked not excluded from the regular rate of pay under the FLSA.

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18. 1-800-Flowers has instructed, required, and/or permitted Plaintiff and its other call center workers to perform work “off the clock” without compensation.

19. The timekeeping system employed by 1-800-Flowers does not capture all the time its call center workers spend working each day. Specifically, 1-800-Flowers requires its call center workers to perform off-the-clock work activities without pay prior to the beginning of their scheduled shift, during the beginning and end of their 30-minute unpaid meal breaks, after clocking out at the end of their scheduled shifts, and at various other times during their shifts when they are clocked out for pay purposes.

20. 1-800-Flowers expects and requires its call center workers to spend as much of their paid time as possible handling calls or available to handle calls.

21. 1-800-Flowers requires, suffers, or permits its call center workers to perform, among other off-the-clock work activities, the following work off the clock without compensation:

- (a) arriving several minutes before the scheduled start of their shifts to, among other things, ensure their computers and all computer systems, applications, or programs necessary to handle telephone calls are up and running and that they have read any updates to be prepared to handle calls by their scheduled shift start time;
- (b) logging out of or closing their computers and certain computer systems, applications, or programs after clocking out for their 30-minute unpaid meal breaks;
- (c) bringing up and logging into their computers and any computer systems, applications, or programs at the end of their 30-minute unpaid meal breaks; and,
- (d) logging out of and closing the programs, applications, and systems required for receiving calls and locking or shutting down their computers after clocking out at the end of each shift.

22. Much of this uncompensated work time is in excess of 40 hours in a week.

23. In addition, Plaintiff and those she seeks to represent have met the requirements to receive the agreed upon commissions, nondiscretionary bonuses, payments in the form of goods or facilities rather than cash, and all other payments for hours worked not excluded from the regular rate of pay under the FLSA.

24. However, 1-800-Flowers failed to include them in calculations of the regular rate of pay.

I. Off-the-Clock Pre-Shift Work

25. 1-800-Flowers requires and expects its call center workers, including Plaintiff, to be ready and available to receive calls and process customer service requests at the time when their shift is scheduled to start. In order to meet this requirement and expectation, 1-800-Flowers's call center workers, including Plaintiff, arrive at their workstations several minutes before their scheduled shift start times to perform integral and indispensable preparatory tasks, including, without limitation:

- (a) turning on and/or booting up their computers;
- (b) starting up various programs, applications, and systems;
- (c) logging onto various programs, applications, systems;
- (d) reading updates; and,
- (e) completing other essential tasks.

26. Once Plaintiff and other call center workers make themselves available for calls, they begin to receive calls. If Plaintiff or other call center workers activate their phones before performing the tasks identified in paragraph 25 and completing other essential tasks, then they are unprepared and unable to handle calls or fulfill customer requests.

27. 1-800-Flowers does not pay call center workers for the time spent performing these integral and indispensable pre-shift tasks.

II. Off-the-Clock Work During 30-Minute Unpaid Meal Periods

28. 1-800-Flowers requires and expects Plaintiff and other call center workers to log out of and/or close computer programs, applications, and systems, and to lock or shut down their computers, after clocking out for their 30-minute unpaid meal period.

29. Before clocking back in at the end of the 30-minute meal period, 1-800-Flowers requires and expects Plaintiff and the other call center workers to turn on or log back into their computers and to bring up and/or log into all necessary programs, applications, and systems.

30. If the 1-800-Flowers call center workers activate their phones before these programs, applications, and systems are up and running, then they are unprepared and unable to handle calls or fulfill customer requests.

31. 1-800-Flowers does not pay its call center workers for the work activities performed during their 30-minute unpaid meal breaks.

III. Off-the-Clock Post-Shift Work

32. 1-800-Flowers requires and expects Plaintiff and other call center workers to perform certain post-call work (*e.g.*, entering customer information and notating customer accounts), to log out of and close various programs, applications, and systems, and to lock or shut down their computers, all after clocking out at the end of their shifts.

33. 1-800-Flowers does not pay its call center workers for these integral and indispensable post-shift tasks, which are necessary for the workers' principal activity of assisting customers on behalf of the 1-800-Flowers.com, Inc. Family of Brands (for example, Harry & David, FruitBouquets.com, The Popcorn Factory, etc.).

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IV. Unpaid Overtime Work

34. During her time working at 1-800-Flowers, Plaintiff was scheduled to work for 40 hours or more per week. Because of 1-800-Flowers's pay and timekeeping practices, as described above, she actually worked more than these scheduled hours each week.

35. Plaintiff estimates that she worked several minutes each day (prior to clocking in for her scheduled shift, during the beginning and end of her 30-minute unpaid meal break, after clocking out at the end of her scheduled shift, and at other times while clocked out during the continuous workday), performing the activities described above for which 1-800-Flowers did not pay her.

36. If Defendant would have recorded and paid Plaintiff for this time, much of it would have resulted in overtime.

37. Other call center workers, like Plaintiff, were scheduled to work 40 hours or more each workweek and, as described above, spent time each shift working off the clock over and above their scheduled shifts. Thus, Plaintiff and all other similarly situated employees regularly worked overtime hours without being compensated at time and a half of their regular hourly rate for all of her hours above 40 in a week.

38. As such, 1-800-Flowers's failure to pay all wages earned, including overtime compensation, due to the 1-800-Flowers Call Center Workers is ongoing and willful.

COLLECTIVE ACTION ALLEGATIONS

39. Plaintiff asserts her FLSA claims and supplemental Oregon state law claims pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the following putative plaintiffs:

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All current and former hourly-paid call center workers at 1-800-Flowers's Medford, Oregon call center who at any time since March 8, 2012 have worked in positions in which employees handle telephone calls on behalf of the 1-800-Flowers.com, Inc. Family of Brands (for example, Harry & David, FruitBouquets.com, The Popcorn Factory, etc.).

(the "Collective").

40. Plaintiff seeks to pursue her claims on behalf of all individuals who opt into this action pursuant to 29 U.S.C. § 216(b).

41. Plaintiff and the Collective are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) because, *inter alia*, 1-800-Flowers had common compensation policies and practices that resulted in a failure to pay them for all hours worked, including overtime, as mandated by the FLSA and Oregon state law.

42. All, or virtually all, of the legal and factual issues that will arise in litigating the collective claims are common to Plaintiff and the Collective. These issues include, but are not limited to: (1) whether and to what extent 1-800-Flowers did not pay for all hours worked, (2) whether and to what extent these unpaid hours include hours worked over 40 in a workweek, and (3) whether and to what extent such overtime hours were compensated at one and one-half times the regular rate of pay.

CLASS ACTION ALLEGATIONS PURSUANT TO FED. R. CIV. P. 23

43. Plaintiff brings her Oregon state law claims on her own behalf and, pursuant to Fed. R. Civ. P. 23, on behalf of the following class of individuals:

All current and former hourly-paid call center workers at 1-800-Flowers's Medford, Oregon call center who at any time since March 8, 2012 have worked in positions in which employees handle telephone calls on behalf of the 1-800-Flowers.com, Inc. Family of Brands (for example, Harry & David, FruitBouquets.com, The Popcorn Factory, etc.).

(the “Rule 23 Class”).

44. Plaintiff is a member of the Rule 23 Class she seeks to represent.

45. The Rule 23 Class is sufficiently numerous that joinder of all members is impractical, satisfying Fed. R. Civ. P. 23(a)(1). There are hundreds of class members during the class period.

46. All members of the Rule 23 Class share the same pivotal questions of law and fact, thereby satisfying Fed. R. Civ. P. 23(a)(2), including, but not limited to: (1) whether and to what extent 1-800-Flowers does not pay them for all hours worked, (2) whether and to what extent these unpaid hours include hours worked over 40 in a week, (3) whether and to what extent such overtime hours were compensated at one and one-half times the regular rate of pay, (4) whether these unpaid hours took place during their 30-minute unpaid meal periods, and (5) whether 1-800-Flowers’s failure to pay wages or compensation owed at the termination of employment was willful.

47. Plaintiff’s claims are typical of the claims of the Rule 23 Class, thus satisfying Fed. R. Civ. P. 23(a)(3). 1-800-Flowers’s failure to pay for all time worked was not the result of any Plaintiff-specific circumstances. Rather, it arose from 1-800-Flowers’s common payroll policies and practices, which it applied to all call center workers at its Medford, Oregon call center.

48. Plaintiff will fairly and adequately represent and protect the interests of the Rule 23 Class. Further, Plaintiff has retained competent counsel experienced in representing classes of employees against their employers related to their employers’ failure to pay them properly under the law, thus satisfying Fed. R. Civ. P. 23(a)(4).

49. By consistently failing to pay its call center workers for all hours worked, 1-800-Flowers has acted on grounds that apply generally to all members of the Rule 23 Class, such that final injunctive relief and corresponding declaratory relief is appropriate respecting the class as a whole. Accordingly, Plaintiff is entitled to pursue her Oregon state law claims as a class action, pursuant to Fed. R. Civ. P. 23(b)(2).

50. By consistently failing to pay its call center workers for all hours worked, 1-800-Flowers has created a scenario where questions of law and fact common to the Rule 23 Class members predominate over any questions affecting only individual members. Thus, a class action is superior to other available methods for fair and efficient adjudication of this matter. Accordingly, Plaintiff is entitled to pursue her Oregon state law claims as a class action, pursuant to Fed. R. Civ. P. 23(b)(3).

FIRST CLAIM FOR RELIEF

FLSA Overtime Violation

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

52. Plaintiff brings this claim on behalf of herself and the Collective, pursuant to 29 U.S.C. § 216(b).

53. At all times material to the allegations herein, Plaintiff and the Collective have been employees entitled to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. §§ 201, *et seq.*

54. 1-800-Flowers is an employer covered by the FLSA.

55. The FLSA entitles employees to compensation for every hour worked in a workweek. *See* 29 U.S.C. § 206(b).

56. The FLSA requires that covered employees receive overtime compensation “not less than one and one-half times” their regular rate of pay for hours worked over 40 in a week. 29 U.S.C. § 207.

57. Plaintiff and the Collective are or were victims of 1-800-Flowers’s common compensation policies and practices that fail to record and compensate them for all time worked.

58. Some of the uncompensated time at issue is time worked in excess of 40 hours per week.

59. As a result, 1-800-Flowers has failed to compensate Plaintiff and the Collective for overtime hours in violation of the FLSA.

60. In addition to hourly pay, 1-800-Flowers pays Plaintiff and the Collective certain commissions, nondiscretionary bonuses, non-cash payments, and other payments.

61. The regular rate used to calculate the overtime rate of pay must include all compensation paid for hours worked, including, but not limited to commissions, nondiscretionary bonuses, payments in the form of goods or facilities rather than cash, and other payments not excluded under the FLSA. *See* 29 U.S.C. § 207(e); 29 C.F.R. § 778.108; *see also*, *e.g.*, 29 C.F.R. §§ 778.116, 778.117, 778.208.

62. 1-800-Flowers does not include these additional payments when calculating the regular rate of pay for Plaintiff and the Collective for purposes of determining their overtime rate of pay.

63. As a result, even when 1-800-Flowers’s records reflect that Plaintiff and the Collective work overtime, 1-800-Flowers pays them at a lower overtime rate of pay than the rate they are entitled to receive under the FLSA.

64. In short, Plaintiff and the Collective are victims of common pay policies and practices that fail to pay them at one and one-half times their regular rate of pay for all hours over 40 in a workweek, in violation of the FLSA.

65. 1-800-Flowers failed to record all compensable time in violation of the FLSA's recordkeeping requirements and knew or should have known that this unrecorded and uncompensated time was compensable under the FLSA, in light of, among other things: (1) a case filed against 1-800-Flowers challenging the same pay scheme in the Southern District of Ohio, *Conklin et al. v. 1-800-Flowers.com, Inc., et al.*, No. 2:16-cv-675, in 2016, (2) dozens of other lawsuits challenging nearly identical compensation schemes for call center workers, and (3) the U.S. Department of Labor's Fact Sheet #64, which can be easily retrieved via Google search and identifies many of the compensation practices alleged here as illegal.

66. Accordingly, 1-800-Flowers acted willfully and with reckless disregard of clearly applicable FLSA provisions.

SECOND CLAIM FOR RELIEF

Oregon Wage and Penalty Claim Pursuant to ORS 653.055

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

68. Plaintiff brings this claim as a supplemental claim to her FLSA overtime claims collectively on behalf of herself and all members of the Collective who opt into this action pursuant to 29 U.S.C. § 216(b).

69. Plaintiff also asserts this claim on behalf of herself and the Rule 23 Class as a class action pursuant to Fed. R. Civ. P. 23.

70. At all relevant times, Plaintiff and the members of the Rule 23 Class have been employed by 1-800-Flowers within the meaning of ORS 653.010(2) and ORS 652.140.

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71. 1-800-Flowers has, at all relevant times, been an employer within the meaning of ORS 653.010(3), OAR 839-020-0004(15), and ORS 652.140.

72. Pursuant to ORS 653.055, any employer who pays an employee less than the wages the employee is entitled to under ORS 653.010 through 653.261 is liable to the affected employee for the full amount of wages owed, less any amount actually paid and for civil penalties pursuant to ORS 652.150.

73. Pursuant to ORS 653.261, the Commissioner of the Bureau of Labor and Industries is empowered to adopt and has adopted rules relating to overtime hours and meal and rest periods, among other conditions of employment. *See* OAR 839-020-0000, *et seq.*

74. Employees are entitled under Oregon law to compensation for all hours worked, including hours worked over 40 in a week at one-and-one-half times their regular rates of pay. *See* ORS 653.261; OAR 839-020-0030.

75. Under Oregon law, compensable “hours worked” includes “all hours for which an employee is employed by and required to give to the employer and includes all time during which an employee is necessarily required to be on the employer’s premises, on duty or at a prescribed work place and all time the employee is suffered or permitted to work.” OAR 839-020-0004(19); *see also* OAR 839-020-0040 through 839-020-0047; ORS 653.010(11).

76. Plaintiff and the Rule 23 Class are victims of 1-800-Flowers’s common compensation policies and practices that fail to record and compensate them for all hours worked.

77. Time spent by Plaintiff and the Rule 23 Class arriving on 1-800-Flowers’s premises and performing the uncompensated work activities described herein constitute

compensable “hours worked” within the meaning of OAR 839-020-0004(19), 839-020-0040 through 839-020-0047, and “work time” as defined by ORS 653.010(11).

78. Some of the uncompensated time at issue is time worked in excess of 40 hours per week.

79. As a result, 1-800-Flowers has failed to compensate Plaintiff and the Rule 23 Class for all hours worked, including hours over 40 in a week at one-and-one-half times their regular rate of pay, in violation of the overtime provisions of the Oregon wage statutes and accompanying regulations. *See* ORS 653.261; OAR 839-020-0030.

80. Additionally, some of the unrecorded and uncompensated, compensable time at issue was worked during their 30-minute unpaid meal periods.

81. Time spent by Plaintiff and the Rule 23 Class performing the uncompensated work activities during their 30-minute unpaid meal periods described herein constitutes compensable “hours worked” within the meaning of OAR 839-020-0004(19), 839-020-0040 through 839-020-0047, and “work time” as defined by ORS 653.010(11).

82. Under Oregon law, “every employer shall provide to each employee, for each work period of not less than six or more than eight hours, a meal period of not less than 30 continuous minutes during which the employee is relieved of all duties.” ORS 653.261; OAR 839-020-0050(2)(a).

83. Oregon law requires employers to pay employees for the entire 30-minute meal period “if an employee is not relieved of all duties for 30 continuous minutes during the meal period.” ORS 653.261; OAR 839-020-0050(2)(b).

84. Because Plaintiff and members of the Rule 23 Class are required to perform work activities without compensation during their 30-minute unpaid meal periods, 1-800-Flowers has violated the meal period provisions of the Oregon wage statute and regulations.

85. Plaintiff and the Rule 23 Class are entitled to recover all unpaid regular and overtime wages for all of their 30-minute unpaid meal periods, during which they performed work without compensation.

86. 1-800-Flowers failed to record all compensable time in violation of the recordkeeping requirements of the Oregon wage statute and regulations and knew or should have known that this unrecorded and uncompensated time (including overtime and time worked during 30-minute unpaid meal breaks) was compensable under Oregon state law. *See* OAR 839-020-0004(33) (under Oregon law, an employer is presumed to know the requirements of the Oregon wage statutes and implementing regulations). 1-800-Flowers has the means to inform itself regarding its obligations under the Oregon wage statute and regulations, but has elected not to do so. Furthermore, a case filed against 1-800-Flowers challenging the same pay scheme under the FLSA and Ohio state law in the Southern District of Ohio, *Conklin et al. v. 1-800-Flowers.com, Inc., et al.*, No. 2:16-cv-675, in 2016, dozens of other lawsuits challenging nearly identical compensation schemes for call center workers, and the U.S. Department of Labor's Fact Sheet #64, which can be easily discovered with a reasonably diligent inquiry, all should have and/or did put 1-800-Flowers on notice that its compensation scheme violates the FLSA and other state laws. For these reasons, 1-800-Flowers's violations of the Oregon wage statute and regulations were knowing and willful, as defined under Oregon state law. *See* OAR 839-020-0004(33).

87. Under Oregon law, “if an employer willfully fails to pay any wages or compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then, as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is commenced.” ORS 652.150.

88. Pursuant to ORS 653.055, employees who have not been paid the wages owed under ORS 653.010 through 653.261 upon cessation of their employment are entitled to seek the penalties provided in ORS 652.150.

89. 1-800-Flowers failed to compensate Plaintiff and the members of the Rule 23 Class who are no longer employed by 1-800-Flowers for all wages they owed under ORS 653.010 through 653.261, as alleged herein, upon the cessation of their employment, in violation of ORS 652.140.

90. 1-800-Flowers’s failure to pay these wages was knowing and willful. *See* OAR 839-020-0004(33).

91. Accordingly, Plaintiff and the members of the Rule 23 Class who are no longer employed by 1-800-Flowers are entitled to the applicable penalties for nonpayment of wages or compensation upon the cessation of their employment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief on behalf of herself and all others similarly situated:

A. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b) and as a class action pursuant to Fed. R. Civ. P. 23;

B. Prompt notice of this litigation, pursuant to 29 U.S.C. § 216(b) to all members of the Collective and pursuant to Fed. R. Civ. P. 23 to all members of the Rule 23 Class;

C. A declaration and finding that 1-800-Flowers has violated the FLSA and the Oregon state wage statute and regulations;

D. A judgment against 1-800-Flowers and in favor of Plaintiff and those she seeks to represent, for compensation for all unpaid and underpaid wages that 1-800-Flowers has failed and refused to pay in violation of the FLSA;

E. A judgment against 1-800-Flowers and in favor of Plaintiff and those she seeks to represent, for compensation for all unpaid and underpaid wages that 1-800-Flowers has failed and refused to pay in violation of the Oregon state wage statutes and regulations;

F. A judgment against 1-800-Flowers and in favor of Plaintiff and those she seeks to represent, for any civil penalties to which they are entitled under ORS 652.150;

G. Prejudgment interest to the fullest extent permitted under the law;

H. Liquidated damages to the fullest extent permitted under the FLSA and Oregon law;

I. Litigation costs, expenses, and Plaintiffs' attorneys' fees to the fullest extent permitted under the law; and,

J. Such other and further relief as this Court deems just and proper in equity and under the law.

JURY DEMAND

Plaintiff demands a jury as to all claims so triable.

DATED this 8th day of March, 2018.

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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.)

<p>I. (a) PLAINTIFFS JENNIFER HARRISON, on behalf of herself and all others similarly situated</p> <p>(b) County of Residence of First Listed Plaintiff <u>Tillamook County, OR</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Stoll Stoll Berne Lokting & Shlachter P.C. 209 SW Oak Street, Suite 500, Portland, OR 97204 (503) 227-1600</p>	<p>DEFENDANTS 1-800-FLOWERS TEAM SERVICES, INC., 1-800-FLOWERS SERVICE SUPPORT CENTER, INC., and 1-800-FLOWERS.COM, INC.</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table>		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
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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	<p>PERSONAL INJURY</p> <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"/> 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"/> 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
<p>REAL PROPERTY</p> <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	<p>CIVIL RIGHTS</p> <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	<p>LABOR</p> <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	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<p>SOCIAL SECURITY</p> <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))
	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <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 <p>Other:</p> <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	<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutional of State 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. § 216(b)

Brief description of cause:
Recovery of unpaid wages under the Fair Labor Standards Act and Oregon 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 _____

DATE: 03/08/2018 SIGNATURE OF ATTORNEY OF RECORD: s/Steve D. Larson

FOR OFFICE USE ONLY

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

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

UNITED STATES DISTRICT COURT

for the

District of Oregon

JENNIFER HARRISON, on behalf of herself and all others similarly situated

Plaintiff(s)

v.

1-800-FLOWERS TEAM SERVICES, INC., 1-800-FLOWERS SERVICE SUPPORT CENTER, INC., and 1-800-FLOWERS.COM, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) 1-800-Flowers Team Services, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

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:

Steve D. Larson Jennifer S. Wagner STOLL STOLL BERNE LOKTING & SHLACHTER P.C. 209 SW Oak Street, Suite 500 Portland, Oregon 97204

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:

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

UNITED STATES DISTRICT COURT

for the

District of Oregon

JENNIFER HARRISON, on behalf of herself and all others similarly situated

Plaintiff(s)

v.

1-800-FLOWERS TEAM SERVICES, INC., 1-800-FLOWERS SERVICE SUPPORT CENTER, INC., and 1-800-FLOWERS.COM, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) 1-800-Flowers Service Support Center, Inc. One Old Country Road, Suite 500 Carle Place, NY 11514

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:

Steve D. Larson
Jennifer S. Wagner
STOLL STOLL BERNE LOKTING & SHLACHTER P.C.
209 SW Oak Street, Suite 500
Portland, Oregon 97204

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

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_____, 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
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I returned the summons unexecuted because _____; or

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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

UNITED STATES DISTRICT COURT

for the

District of Oregon

JENNIFER HARRISON, on behalf of herself and all others similarly situated

Plaintiff(s)

v.

1-800-FLOWERS TEAM SERVICES, INC., 1-800-FLOWERS SERVICE SUPPORT CENTER, INC., and 1-800-FLOWERS.COM, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) 1-800-Flowers.com, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

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:

Steve D. Larson Jennifer S. Wagner STOLL STOLL BERNE LOKTING & SHLACHTER P.C. 209 SW Oak Street, Suite 500 Portland, Oregon 97204

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

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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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Suit Against 1-800-Flowers Alleges Call Center Employees Underpaid](#)
