

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BRIANA KARETTIS, individually and on behalf of all similarly situated, Plaintiff, vs. ATL NIGHT LIFE GROUP, LLC and ANWAR SHARIF, Defendant.	CIVIL ACTION FILE NO. _____ FLSA COLLECTIVE ACTION JURY TRIAL DEMANDED
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COMPLAINT OF PLAINTIFF BRIANA KARETTIS

The Plaintiff, BRIANNA KARETTIS (“Plaintiff”), individually and on behalf of all similarly situated, files this collective action Complaint against ATL Night Life Group, LLC d/b/a Havana Club and Anwar Sharif (“Defendants”) and shows:

I. INTRODUCTION

1. This action arises from an employment relationship between the Plaintiff and Defendants, and is necessitated by Defendants’ intentional violations of the Fair Labor Standards Act (“FLSA”) which include: (1) forcing Plaintiff and similarly situated waitresses to make telephone solicitations to clients and to attend events for the benefit of Defendants off the clock and without compensation; (2)

unlawful implementation and administration of a tip credit and tip pooling program by taking tips from Plaintiff and similarly situated waitresses and using them for unlawful purposes that benefit the Defendants; and (3) the failure to maintain proper time records for hours worked by Plaintiff and other waitresses. All of the foregoing acts had the effect of reducing the wages of Plaintiff and all similarly situated waitresses below the statutory minimum wage. The claim for relief herein includes, but is not necessarily limited to, an action under the FLSA for violation of 29 U.S.C. § 206. The remedies sought herein include but are not necessarily limited to: (1) certification of a class of all similarly situated waitresses employed by Defendants in the preceding three years; (2) a judgment for compensatory damages for all unpaid wages at the minimum rate; (3) an award of liquidated damages in an equal amount; (4) interest; and (5) an award of fees and costs under 29 U.S.C. § 216 and 28 U.S.C. § 1920.

II. PARTIES, JURISDICTION, AND VENUE

2. Plaintiff is a resident of and citizen of Georgia.
3. The collective action members are current or former waitresses who were employed by Defendants in the three (3) years preceding the filing of this Complaint through the present.
4. Defendant Havana Club is a Georgia limited liability company with a

principal place of business and registered office located at 3112 Piedmont Road, Atlanta, Georgia 30305. The Defendant's Registered Agent is Anwar Sharif. The Defendant is physically present in Georgia and can be served with process within the territorial boundaries of this state, and this Court can therefore exercise personal jurisdiction.

5. Defendant Anwar "Andy" Sharif ("Sharif") is, upon information and belief, a resident of Fulton County, Georgia. The Defendant is physically present in Georgia and can be served with process within the territorial boundaries of this state, and this Court can therefore exercise personal jurisdiction.

6. This Court has subject matter jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 because this action arises under the FLSA, 29 U.S.C. § 201 *et seq.*

7. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendants' club is located in this district, Plaintiff and the collective action members worked in this district, and all or a substantial portion of the events forming the basis of this action occurred in this district.

III. FACTUAL ALLEGATIONS

8. Plaintiff was an employee of and a waitress at the Havana Club from June 2017 until January 2018.

9. Plaintiff was classified as a tipped employee under the FLSA and paid \$2.13 per hour.

10. In addition, Havana Club's customers paid tips to Plaintiff and other waitresses.

11. The Plaintiff and similarly situated waitresses were required to contribute to a tip pool.

12. The tips contributed to the tip pool by Plaintiff and similarly situated waitresses were used by Defendants to pay for uniforms, management, the cleaning crew, and other improper purposes.

13. Havana Club required Plaintiff and similarly situated waitresses to work on Saturday of each week at the Club contacting potential and existing customers of the Havana Club, which constituted "hours worked" under the FLSA.

14. Havana Club required Plaintiff and other waitresses to attend private events and other activities at the Club, which constituted "hours worked" under the FLSA.

15. Defendants did not keep records of the hours worked by Plaintiff and similarly situated waitresses to make the aforementioned Saturday calls to actual and prospective customers or to attend the aforementioned private events, the

hours worked were “off the clock”, and the Plaintiff and similarly situated waitresses were not paid for the aforementioned hours worked.

16. Havana Club’s unlawful use of tips and deductions from pay, along with forcing waitresses to work off the clock without compensation, caused the Plaintiff’s and similarly situated waitresses’ wages to drop below the minimum wage.

17. Havana Club is engaged in “commerce” and/or in the production of “goods” for “commerce” within the meaning of the FLSA, 29 U.S.C. § 207(a)(1).

18. Havana Club is an “enterprise engaged in commerce” within the meaning of the FLSA, 29 U.S.C. § 203(s)(1), because it has employees engaged in commerce and its annual gross volume of sales is more than \$500,000.

19. At all times pertinent hereto, Havana Club was an “employer” of Plaintiff and the collective action members within the meaning of 29 U.S.C. § 203(d) and (g).

20. Defendant Shariff is a member of the Defendant limited liability club and is a co-owner, he is the general manager of the Havana Club, he therefore had significant ownership interest and control over the club’s day to day operations, and directly or indirectly acted on behalf of the Havana Club at all times pertinent hereto.

21. Upon information and belief, Defendant Sharif established and enforced the aforementioned unlawful policies; directly or indirectly provided instructions to the Plaintiff and other waitresses on work schedules and the time, place and manner of their work; made decisions on the hiring and firing of employees; and made decisions on the terms and conditions of employment, including compensation and work conditions.

22. At all times pertinent hereto, Defendant Sharif was an “employer” of Plaintiff and the collective action members within the meaning of 29 U.S.C. § 203(d) and (g).

23. At all times pertinent hereto, Plaintiff and the other collective action members were “employees” of Defendants within the meaning of 29 U.S.C. § 203(e)(1).

24. Plaintiff and other Havana Club waitresses were “covered” employees under the FLSA and were not exempt from the Act’s minimum wage requirements and other requirements.

25. Defendant is subject to the statutory recordkeeping requirements in 29 U.S.C. § 211(c) and the United States Department Of Labor’s (“DOL”) recordkeeping requirements in 29 C.F.R. Part 516.

26. Upon information and belief, Havana Club maintains improper

records of deductions from wages and amounts distributed from the waitress tip pools.

27. Havana Club maintains incomplete records of time worked by each waitress.

28. Havana Club's failure to maintain complete and accurate records violates the record keeping requirements in the FLSA and 29 C.F.R. Part 516.

29. Defendants knew of the unlawfulness of their compensation policies and practices or showed reckless disregard for the fact that their compensation policies violated the FLSA.

30. Plaintiff has consented in writing to assert claims under the FLSA, and her consent to join is attached hereto as **Exhibit 1**. As this case proceeds, it is likely that other individuals will sign consent forms and join this action as opt-in Plaintiffs.

IV. COLLECTIVE ACTION ALLEGATIONS

31. Plaintiff incorporates by reference the allegations in paragraphs 8 through 30 above and relies on them as if set forth fully herein.

32. Havana Club maintained a policy and practice of using waitresses' tips for improper purposes, requiring payments from the waitresses, and requiring

them to work off the clock without compensation, which all had the effect of taking their compensation below the minimum wage.

33. Like Plaintiff, there are members of the putative collective action who are or were subject to the same FLSA violations. These individuals would benefit from the issuance of a court-supervised notice of this lawsuit and the opportunity to join by filing their written consent. Defendant can readily identify these similarly situated waitresses through its business records.

34. The putative class includes:

All waitresses who were employed by ATL Night Life Group, LLC in the past three (3) years.

V. CLAIM FOR RELIEF

COUNT I **ACTION UNDER THE FLSA FOR MINIMUM WAGE COMPENSATION** **(Violation of 29 U.S.C. § 206)**

35. Plaintiff incorporates by reference the allegations contained in paragraphs 8 through 34 above and relies on them as if set forth fully herein.

36. Plaintiff and similarly situated waitresses are “covered” employees under the FLSA and protected by its minimum wage and record keeping requirements.

37. Each Defendant is an “employer” of Plaintiff and all others similarly situated within the meaning of the FLSA, 29 U.S.C. § 203(d).

38. Plaintiff consents to sue in this action pursuant to 29 U.S.C. § 216(b).

39. A consent to sue executed by each Plaintiff is attached to this pleading.

40. Defendants failed to pay Plaintiff and all others similarly situated the minimum wage in violation of 29 U.S.C. § 206.

41. Defendants knowingly, intentionally, and willfully violated the FLSA by not paying Plaintiffs the minimum wage under the FLSA.

42. Defendants knowingly and intentionally violated the FLSA in bad faith, and there is no evidence that the Defendants acted in good faith and based on reasonable grounds.

43. Accordingly, Plaintiff and all similarly situated waitressed are entitled to a judgment for all unpaid minimum wage compensation, an equal amount in the form of liquidated damages, interest, and an award of reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

VI. PRAYERS FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

1. Certify this action as a collective action on behalf of the FLSA Class Members and promptly issue notice pursuant to 29 U.S.C. § 216(b) to all similarly situated waitresses informing them of the pendency of this action,

their claims, their right to file a consent form to join this action, and of the appointment of Plaintiff and the undersigned to represent the collective action class members;

2. Enter a judgment for Plaintiff and each collective action member for wages at the minimum rate, as well as liquidated damages, interest, and attorneys' fees as provided for under the FLSA;
3. Award Plaintiff and each collective action member costs of this action to the full extent permissible under 29 U.S.C. § 216 and 28 U.S.C. § 1920;
4. Grant Plaintiff and each collective action member a jury trial on each issue so triable; and
5. Afford Plaintiff and each collective action member such other and further relief as this Court may deem just and proper.

The undersigned certify compliance with Local Rules on format and font.

This 2d day of May, 2018.

Dudley Law, LLC

/s/ Ainsworth Dudley

Ainsworth Dudley, Bar No. 237415

Co-counsel For Plaintiff

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Vince Tilley, P.C.

s/ Vincent M. Tilley

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Co-counsel For Plaintiff

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CONSENT FORM

1. I hereby consent to join the captioned lawsuit brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*

2. I hereby designate Ainsworth G. Dudley to represent me in this lawsuit.

5/2/2018

Date: _____



Briana Karettis

Signature

Briana Karettis

Print Name

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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.)

I. (a) PLAINTIFFS BRIANA KERATTS
(b) County of Residence of First Listed Plaintiff Fayette
(c) Attorneys (Firm Name, Address, and Telephone Number) Ainsworth Dudley, Dudley Law, LLC Suite 200, Building One, 4200 Northside Parkway Atlanta, GA 30327 Tel. 404.687.8205

DEFENDANTS ATL NIGHT LIFE GROUP, LLC and ANDREW SHARIF
County of Residence of First Listed Defendant Fulton
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
REAL PROPERTY
PERSONAL INJURY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. Sec. 206, 216
Brief description of cause:
Violation of FLSA due to failure to pay all minimum wage compensation

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 05/02/2018 SIGNATURE OF ATTORNEY OF RECORD Ainsworth Dudley

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print

Save As...

Reset

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Havana Club Owner ATL Night Life Group Hit with Unpaid Wage Lawsuit](#)
