

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

KIMBERLY D. PAYNE, individually and
on behalf of a collective of others similarly-
situated,

Plaintiffs,

v.

LEHIGH VALLEY RESTAURANT
GROUP, INC.,

Defendant.

Case No.: _____

INDIVIDUAL AND COLLECTIVE ACTION

JURY TRIAL DEMANDED

Electronically Filed

COMPLAINT – INDIVIDUAL AND COLLECTIVE ACTION

Plaintiff Kimberly D. Payne, in her individual capacity, and on behalf of a proposed collective of similarly-situated female employees, brings this action to address gender discrimination in employee pay practices perpetrated by Defendant Lehigh Valley Restaurant Group, Inc. in violation of the Equal Pay Act of 1963 (“Equal Pay Act”), 29 U.S.C. § 206, *et seq.* Based on her personal knowledge with regards to Plaintiff and Plaintiff’s actions, and on information and belief as to all other matters, Plaintiff alleges as follows:

THE PARTIES

1. Plaintiff Kimberly D. Payne (“Ms. Payne”) is an adult female residing in Cumberland County, Pennsylvania. From approximately 2014 until October 2018, Ms. Payne was an “employee” of LVRG, as defined by the Equal Pay Act. From approximately July 2018 until October 2018, Ms. Payne was a salaried Front of House Manager. As a salaried Front of House Manager, Ms. Payne was consistently and systematically paid less than her male peers for the same work. Ms. Payne has executed a Consent to Join form pursuant to 29 U.S.C § 216(b), which is attached and incorporated as **Exhibit A**.

2. Defendant Lehigh Valley Restaurant Group, Inc. (“LVRG”) is a Pennsylvania corporation with its principal place of business in Allentown, Pennsylvania. LVRG is a franchisee of Red Robin Gourmet Burgers, Inc. covering the Lehigh Valley, Northeast, Southeast and Harrisburg regions of Pennsylvania. Upon information and belief, LVRG owns and operates twenty-two (22) Red Robin franchise restaurants.

3. At all times relevant to this action, LVRG was an “employer” as defined by the Equal Pay Act. At all times relevant to this action, Defendant LVRG acted as Ms. Payne’s employer.

4. Ms. Payne asserts Count I of this Complaint, on behalf of herself individually and a collective action class of similarly-situated female employees, for violations of the Equal Pay Act. Ms. Payne seeks to recover damages for the collective action class and themselves, including, but not limited to, back pay, liquidated damages, reasonable attorneys’ fees, and litigation costs.

5. Ms. Payne asserts Count II of this Complaint, on behalf of herself individually, for retaliation in violation of Section 215(a)(3) of the Equal Pay Act. Plaintiff Payne seeks to recover damages, on behalf of herself individually, including, but not limited to, compensatory damages, liquidated damages, punitive damages, reasonable attorneys’ fees, and litigation costs.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this suit pursuant to the Equal Pay Act of and 28 U.S.C. § 1331.

7. Venue is proper in this District pursuant to 28 U.S.C § 1391(b). The unlawful employment practices complained of *infra* took place within this District and a substantial part of the events and omissions giving rise to Plaintiffs’ claims occurred in this District. Further, LVRG regularly transacts substantial business within this District.

FACTUAL ALLEGATIONS

8. Within LVRG's Red Robin restaurants, LVRG maintains strict, centralized control over its employees, which includes hiring and wage decisions. In order to maintain this control, LVRG has a rigid top down, hierarchical corporate structure.

9. At the restaurant level, the salaried Front of House Managers report directly to the restaurant's General Manager.

10. Above the LVRG restaurant level, individual restaurant General Managers report directly to a Regional Manager. Upon information and belief, the approximately five (5) Regional Managers report to LVRG's senior corporate executives.

11. LVRG'S Regional Managers, in conjunction with LVRG's executive leadership, execute a top down wage policy, which consistently, systematically, and willfully pays female salaried Front of House Managers less than their male colleagues, in the same positions, for the same work.

12. LVRG's deliberate gender discrimination against women manifests itself in the pay rate of salaried Front of House Managers throughout LVRG's restaurants.

13. The wage disparity between female and male salaried Front of House Managers within LVRG's restaurants is based solely on gender.

PLAINTIFF PAYNE'S EXPERIENCE AS A LVRG EMPLOYEE

14. Ms. Payne first worked at an LVRG Red Robin restaurant in 2014.

15. Between her date of hire and termination in 2018, Ms. Payne worked at LVRG locations in Mechanicsburg, Selinsgrove, York and Lancaster, Pennsylvania.

16. Ms. Payne's last position within LVRG was as a salaried Front of House Manager from approximately July 2018 until her termination on or about October 20, 2018.

17. Prior to being promoted to a salaried Front of House Manager, Ms. Payne worked as an hourly manager in the York, Pennsylvania location.

18. When Ms. Payne was promoted to the salaried Front of House Manager position, she was offered a salary of \$42,000, and was able to negotiate a salary of \$43,000 per year.

19. Ms. Payne was aware that LVRG at the time was advertising online for salaried Front of House Managers with starting salaries of \$50,000, and that males were being hired from outside LVRG with starting salaries of at least \$48,000 to \$50,000.

20. Ms. Payne was also aware that female salaried Front of House Managers were routinely paid significantly less than their male counterparts. While males were paid a salary of \$48,000 to \$50,000 per year, females were paid a salary in the range of \$43,000 per year.

21. On or about September 19, 2018, Ms. Payne made a complaint at a meeting attended by her Regional Manager regarding the disparity in pay between female Front of House Manager salaries and those of their male counterparts.

22. Rather than address Ms. Payne's concerns about pay disparity, LVRG terminated Ms. Payne's employment on or about October 20, 2018.

23. Ms. Payne was an exemplary employee for LVRG who was consistently and willfully paid less than her male colleagues with the same title performing the same job responsibilities. LVRG had no basis, other than gender, to pay Ms. Payne less than her male colleagues, and no basis, other than her complaint regarding the disparity of pay between female and male Front of House Managers, to terminate her employment. LVRG's actions were deliberate and willful violations of the Equal Pay Act.

COLLECTIVE ACTION ALLEGATIONS UNDER THE EQUAL PAY ACT

24. LVRG has engaged in systemic gender discrimination against its female employees. LVRG has caused, contributed to, and perpetuated gender-based pay disparities through common policies, practices, and procedures, including but not limited to common compensation and centralized decision-making.

25. Plaintiff re-alleges and incorporates by reference each and every allegation in the previous paragraphs alleging common policies, practices, and procedures resulting in unequal pay earned by female employees in LVRG's restaurants.

26. Plaintiff brings this claim for violations of the Equal Pay Act as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of all members of the Collective Action Class. The Collective Action Class is defined as follows:

All female employees who are or have been employed by Defendant Lehigh Valley Restaurant Group, Inc. as salaried Front of House Managers from three (3) years prior to the filing date of this Complaint up until this Collective Action Class is finally certified by the Court.

27. Plaintiff seeks to represent all female Front of House Managers, as described above, who were paid less than male employees for doing similar work. The systemic gender discrimination described in this Complaint has been, and is, continuing in nature.

28. Questions of law and fact common to the Collective Action Class and Plaintiff include but are not limited to the following:

- a. Whether LVRG unlawfully failed and continues to unlawfully fail to compensate female Front of House Managers at a level commensurate with comparable male employees;

- b. Whether LVRG's policy, practice, or procedure of failing to compensate female Front of House Managers at a level commensurate with comparable male employees violates the applicable provisions of the Equal Pay Act; and
- c. Whether LVRG's failure to compensate female Front of House Managers at a level commensurate with comparable male employees was willful within the meaning of the Equal Pay Act.

29. Plaintiff's Equal Pay Act claim may be maintained as an "opt-in" collective action pursuant to 29 U.S.C. 216(b) because Plaintiff is similarly-situated to the female employees described in the Collective Action Class. Plaintiff's claims are similar to the claims asserted by the Collective Action Class.

30. Plaintiff and the Collective Action Class are (a) similarly situated; and (b) are subject to LVRG's common compensation policies, practices and procedures and centralized decision-making resulting in unequal pay based on sex by failing to compensate female Front of House Managers at a level commensurate with male employees who perform substantially equal work and/or hold equivalent levels, job titles, and positions.

COUNT I
(INDIVIDUAL AND COLLECTIVE ACTION CLASS CLAIM)

**VIOLATION OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED BY
THE EQUAL PAY ACT OF 1963 ("EQUAL PAY ACT"),
29 U.S.C. § 206, *ET SEQ.***

**DENIAL OF EQUAL PAY FOR EQUAL WORK
(Asserted by Plaintiff and the Collective Action Class Against Defendant)**

31. Plaintiff re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

32. This Count is brought on behalf of Plaintiff and all members of the Collective Action Class against Defendant Lehigh Valley Restaurant Group, Inc.

33. LVRG is an employer of Plaintiff and the members of the Collective Action Class within the meaning of the Fair Labor Standards Act of 1938 (“FLSA”), 29 U.S.C. § 206, *et seq.*, as amended by the Equal Pay Act.

34. LVRG has discriminated against Plaintiff and the members of the Collective Action Class by paying them less than similarly-situated male employees who performed jobs which required equal skill, effort, and responsibility, and which were performed under similar working conditions.

35. Defendant so discriminated against Plaintiff and the members of the Collective Action Class by subjecting them to common discriminatory pay and performance management policies, including discriminatory salaries in violation of the Equal Pay Act.

36. The differential in pay between Plaintiff and the members of the Collective Action Class and similarly-situated male employees was not due to seniority, merit, quantity or quality of production, or a factor other than sex, but was, in fact, due exclusively to sex.

37. LVRG caused, attempted to cause, contributed to, and caused the continuation of wage rate discrimination based on sex in violation of the Equal Pay Act.

38. LVRG intentionally paid Plaintiff and the members of the Collective Action Class less than similarly-situated male employees in violation of the Equal Pay Act. The foregoing conduct constitutes a willful violation of the Equal Pay Act within the meaning of 29 U.S.C. § 255(a). Because LVRG has willfully violated the Equal Pay Act, a three (3) year statute of limitations applies to such violations pursuant 29 U.S.C. § 255(a).

39. As a result of LVRG’s unlawful conduct, Plaintiff as well as the members of the Collective Action Class suffered and will continue to suffer harm, including, but not limited to, lost earning, lost benefits, lost future employment opportunities, and other financial losses, as well non-economic damages.

40. Plaintiff and the Collective Action Class are entitled to all legal and equitable remedies available for violations of the Equal Pay Act, including, but not limited to, back pay, liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees and litigations costs, and other compensation pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF ON COUNT I

WHEREFORE, Plaintiff, on behalf of herself and the Collective Action Class, prays that this Court:

- A. Designate this action as a collective action on behalf of the proposed Collective Action Class and
 - a. Promptly issue notice pursuant to 29 U.S.C § 216(b) to all similarly-situated members of the Collective Action Class, which (1) apprises them of the pendency of this action, and (2) permits them to assert timely Equal Pay Act claims in this action by filing individual Consent to Join forms pursuant to 29 U.S.C. § 216(b); and
 - b. Toll the statute of limitations on the claims of all members of the Collective Action Class from the date the original complaint was filed until the members of the Collective Action Class are provided with reasonable notice of the pendency of this action and a fair opportunity to exercise their rights to opt-in as Plaintiffs;
- B. Designate Plaintiff, Payne as representative of the Collective Action Class;
- C. Designate Plaintiff's chosen counsel, McCarthy Weisberg Cummings, P.C., as counsel for the Collective Action Class;
- D. Declare and adjudge that Defendant Lehigh Valley Restaurant Group, Inc.'s employment decisions, policies, practices, and/or procedures challenged herein are harmful and in violation of the Equal Pay Act;
- E. Award back pay to Plaintiff and the members of the Collective Action Class, including a sum to compensate Plaintiff and the members of the Collective Action Class for any increased tax liability on a lump-sum award of back pay;
- F. Award liquidated damages to Plaintiff and the members of the Collective Action Class in the maximum amount available under the Equal Pay Act;
- G. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to Plaintiff and the members of the Collective Action Class;

H. Award Plaintiff and the members of the Collective Action Class pre-judgment and post-judgment interest available under the Equal Pay Act;

I. Award Plaintiff and the members of the Collective Action Class any other appropriate equitable relief; and

J. Award any additional relief that this Court deems just and proper.

COUNT II
(INDIVIDUAL CLAIM)

RETALIATION IN VIOLATION OF 29 U.S.C § 215(a)(3)
(Asserted by Plaintiff Payne Against Defendant)

41. Plaintiff Payne re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

42. On or about September 19, 2018, Ms. Payne made a complaint regarding the gender-based pay disparity between male and female salaried Front of House Managers of LVRG restaurants at a meeting that was attended by a Regional Manager.

43. Ms. Payne's complaint was the filing of a complaint within the meaning of the FLSA.

44. In retaliation for raising concerns regarding LVRG'S violation of the Equal Pay Act, LVRG terminated Ms. Payne. LVRG'S termination of Ms. Payne was in retaliation for complaining about the gender-based pay disparity between male and female employees in further violation of the FLSA.

45. LVRG'S termination of Ms. Payne after she complained to her superiors regarding a gender-based pay disparity among LVRG restaurant General Managers constituted a willful violation of the anti-retaliation provision of Section 215(a)(3) of the FLSA.

PRAYER FOR RELIEF ON COUNT II

WHEREFORE, Plaintiff Payne, on behalf of herself individually, prays that this Court:

A. Declare and adjudge that Defendant Lehigh Valley Restaurant Group, Inc.'s employment decisions, policies, practices, and/or procedures challenged herein constitute retaliation in violation of the Equal Pay Act and Section 215(a)(3) of the FLSA;

B. Award Plaintiff Payne compensatory damages;

C. Award Plaintiff Payne liquidated damages in the maximum amount available under the Equal Pay Act;

D. Award Payne punitive damages;

E. Award Plaintiff Payne her reasonable attorneys' fees and litigation expenses;

F. Award Plaintiff Payne pre-judgment and post-judgment interest available under the Equal Pay Act;

G. Award Plaintiff Payne any other appropriate equitable relief; and

H. Award any additional relief that this Court deems just and proper.

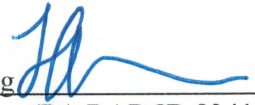
DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable.

Dated: January 3, 2019

Respectfully submitted,

WEISBERG CUMMINGS, P.C.

By: /s/ Larry A. Weisberg 

Larry A. Weisberg (PA BAR ID 83410)

Derrek W. Cummings (PA BAR ID 83286)

2704 Commerce Drive, Suite B

Harrisburg, PA 17110

Telephone: (717) 260-3854

Facsimile: (717) 233-8133

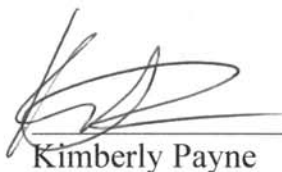
Email: lweisberg@weisbergcummings.com

dcummings@weisbergcummings.com

CONSENT TO BECOME A PARTY PLAINTIFF

Fair Labor Standards Act, 29 U.S.C. § 216(b)

I hereby consent to become a party plaintiff in the forgoing action.

A handwritten signature in black ink, appearing to read 'Kimberly Payne', is written over a horizontal line.

Kimberly Payne

JS 44 (Rev. 06.17)

JLS

CIVIL COVER SHEET

5:19-CV-28

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

KIMBERLY D. PAYNE, individually and
on behalf of a collective of others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Larry A. Weisberg, Esq., Weisberg Cummings, PC, 2704 Commerce
Drive, Suite B, Harrisburg, PA 17110, (717) 238-5707

DEFENDANTS

LEHIGH VALLEY RESTAURANT GROUP, INC

County of Residence of First Listed Defendant Lehigh

(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	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care - Pharmaceutical <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609
REAL PROPERTY <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	CIVIL RIGHTS <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	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

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,
Equal Pay Act of 1963, 29 U.S.C. § 206, et seq

Brief description of cause

Defendant systematically discriminated against female employees by paying them less than male employees

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

01/03/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

JAN - 4 2019

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff Kimberly Payne, 1319 Third Street, Apt. 9, Enola, PA 17025
 Address of Defendant Lehigh Valley Restaurant Group, Inc., 6802 Hamilton Blvd., Allentown, PA 18106
 Place of Accident, Incident or Transaction: 6802 Hamilton Blvd., Allentown, PA 18106

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when **Yes** is answered to any of the following questions

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

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

DATE 01/03/2019

JA
Attorney-at-Law / Pro Se Plaintiff

83410

Attorney I D # (if applicable)

CIVIL: (Place a ✓ in one category only)**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☒ 11. All other Federal Question Cases
(Please specify) Equal Pay Act / FLSA

B. Diversity Jurisdiction Cases:

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

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

Larry A. Weisberg

, counsel of record or pro se plaintiff, do hereby certify



Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs



Relief other than monetary damages is sought.

DATE 01/03/2019

JA
Attorney-at-Law / Pro Se Plaintiff

83410

Attorney I D # (if applicable)

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

JAN - 4 2019

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

CASE MANAGEMENT TRACK DESIGNATION FORM

Kimberly D. Payne, individually and on
behalf of a collective of others
similarly situated v.
Lehigh Valley Restaurant Group, Inc.

19

CIVIL ACTION

28

NO.

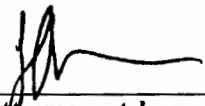
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1-03 of the plan set forth on the reverse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

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

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

01/03/2019

Date


 Attorney-at-law

Plaintiff

Attorney for

(717) 238-5707

Telephone

(717) 233-8133

FAX Number

lweisberg@weisbergcumplings.com

E-Mail Address

(Civ. 660) 10/02

JAN - 4 2019

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Red Robin Franchisee Sued by Ex-Manager Over Alleged Gender Pay Discrimination](#)
