

THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF SOUTH CAROLINA  
 FLORENCE DIVISION

Scott Vanderstelt and Vandy Vanderstelt,	)	
on behalf of themselves and all similarly	)	Civil Action No.:
situated natural person(s),	)	
	)	
Plaintiffs,	)	
	)	<b>COMPLAINT</b>
v.	)	(Class Action/Collective Action)
	)	(Jury Trial Demanded)
Snyder’s-Lance, Inc., and S-L Distribution,	)	
LLC,	)	
	)	
Defendants.	)	

Scott Vanderstelt and Vandy Vanderstelt (the “Named Plaintiffs”), individually and on behalf of all other similarly situated persons (collectively with the Named Plaintiffs, the “Class”), by way of this Complaint against Defendants (collectively referred to herein as “Snyder’s” or “Defendants”), aver as follows and pray for declaratory relief and all available relief under the South Carolina Payment of Wages Act, S.C. Code Ann. §41-10-10, *et seq.* (the “SCPWA”) and the Fair Labor Standards Act of 1938, 29 U.S.C. §201, *et seq.* (“FLSA”).

**OVERVIEW OF ACTION**

1. This is a class/collective action brought to obtain monetary relief for the Named Plaintiffs and a putative class of employees of Snyder’s for its violations of, *inter alia*, the SCPWA and the FLSA, and specifically seeking a declaration of the status, rights, obligations, privileges and benefits owed to the Class by Snyder’s under SCPWA and the FLSA. In the alternative, the Named Plaintiffs’ claims herein are also brought as individual claims.

2. Snyder’s is an enterprise engaging in interstate commerce. Snyder’s employs thousands of individuals to produce, handle, deliver, stock, and otherwise sell snack goods that are moved in or produced in interstate commerce, including throughout South Carolina.

3. The Class consists of those natural persons working in South Carolina and providing snack retail stocking and support services to Snyder's "central billing customers" in South Carolina. These natural persons comprising the Class receive snack foods (e.g., "Snyder's of Hanover," "Lance," and other brands) from Snyder's employees at Snyder's warehouses in South Carolina, take those snacks to Snyder's "central billing customers" in South Carolina, and provide stocking and account service support for Snyder's business with these customers. Snyder's has refused to recognize the Class as employees when, in reality, the Class members are Snyder's "employees" under both the SCPWA and the FLSA. This action challenges, pursuant to 28 U.S.C. 2201, *et. seq.*, Snyder's misclassification of these stocking clerks as non-employees and seeks to recover for the Class payment from Snyder's amounts due under Snyder's own policies and at law.

4. In response to years of lawsuits and government audits for this precise violation of state and federal law, Snyder's has attempted to establish "independent contractor" relationships with companies Snyder's calls "Distributors," which are not parties to this action. However, Snyder's retains control over numerous customers in each "territory" and operates its own business with these customers. Snyder's knowingly uses the Class as its stocking clerks to satisfy its own agreements with and obligations to Snyder's retained customers – the so-called "central billing customers" – in South Carolina. Snyder's micro-manages the Class' work activities relating to Snyder's own customers in such a manner that the Class members, including the Named Plaintiffs, are statutory employees of Snyder's to whom Snyder's pays no compensation as required by Snyder's own employment policies, the SCPWA, and the FLSA.

#### **JURISDICTION AND VENUE**

5. The Named Plaintiffs are individuals that are citizens and residents of South Carolina. They are over the age of eighteen, and they reside and work for Snyder's in the Florence

Division of this District without receiving the compensation required by state and federal law.

6. Upon information and belief, Snyder's-Lance, Inc., is a North Carolina corporation with its principal place of business located in Charlotte, North Carolina. While the Named Plaintiffs are aware that Snyder's-Lance, Inc., was acquired by Campbell Soup Company in late March 2018, the Named Plaintiffs are informed and believe that Snyder's-Lance, Inc., is a surviving corporation following its merger with Twist Merger Sub, Inc., a wholly owned subsidiary that Campbell Soup Company formed in North Carolina and used to acquire the shares of Snyder's-Lance, Inc.

7. Snyder's-Lance, Inc., remains of record as a corporation in good standing with the South Carolina Secretary of State as of the date of the filing of this Complaint.

8. Snyder's-Lance, Inc.'s registered agent for service in South Carolina is CT Corporation System located at 2 Office Park Court, Suite 103, Columbia, South Carolina 29223.

9. Upon information and belief, Snyder's-Lance, Inc., ceased to be a publicly traded company on or about March 26, 2018. However, upon information and belief, it is now a wholly-owned subsidiary of Campbell Soup Company, which is publicly traded on the New York Stock Exchange.

10. Upon information and belief, S-L Distribution Company, LLC, is limited liability company formed under the laws of Delaware.

11. Upon information and belief, S-L Distribution Company, LLC, is a wholly owned subsidiary of Snyder's-Lance, Inc., and Campbell Soup Company is now its ultimate parent.

12. Upon information and belief, S-L Distribution Company, LLC's principal place of business is Charlotte, North Carolina; it shares officers and directors with its parent, Snyder's-Lance, Inc., and Charlotte, North Carolina, is where S-L Distribution Company, LLC's officers

direct, control, and coordinate its activities.

13. S-L Distribution Company, LLC, remains a limited liability company in good standing with the South Carolina Secretary of State as of the date of the filing of this Complaint.

14. S-L Distribution Company, LLC's registered agent for service in South Carolina is CT Corporation System located at 2 Office Park Court, Suite 103, Columbia, South Carolina 29223.

15. During all times material to this Complaint, Defendants were a single enterprise within the meaning of Section 3(r)(1) of the FLSA, 29 U.S.C. § 203(r)(1), because Defendants operate under common control and engage in related activities for a common business purpose. This is evidenced by the public records on file with the United States Securities and Exchange Commission ("SEC"), including quarterly and annual reports, made by Snyder's during the three (3) years immediately preceding this Complaint. These reports demonstrate that Snyder's-Lance, Inc., and its wholly-owned domestic subsidiaries share officers and directors, and the subsidiaries are accounted for and treated as a consolidated enterprise for financial and public reporting.

16. Likewise, the public records on file with the SEC demonstrate that the Defendants were an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1) over the past three (3) years.

17. Upon information and belief, S-L Distribution Company, LLC, is the subsidiary that Snyder's-Lance, Inc., uses to sell and distribute "Snyder's of Hanover," "Lance," and other brands of snack products throughout South Carolina. The Named Plaintiffs are also aware that Snyder's-Lance, Inc., has identified other subsidiaries in the past, including S-L Distribution Company, Inc., and S-L Routes, LLC, as its distribution subsidiaries; these companies are believed to have been subsidiaries of Snyder's-Lance, Inc., prior to the termination of their existence. If it

is clarified in Defendants' response to Local Rule 26.01 Interrogatories or otherwise learned in discovery that Defendants are not properly identified or that any other parent or subsidiary of Snyder's in fact employed Class members for Snyder's in South Carolina during the three (3) years immediately prior to the filing of this Complaint, then the Named Plaintiffs will amend this Complaint to include whichever parent or subsidiary of Snyder's-Lance, Inc., has been so engaged during the time relevant to this Complaint.

18. During all times relevant to the allegations made in this Complaint, Defendants were "employers" within the meaning of S.C. Code Ann. § 41-10-10 and Section 3(d) of the FLSA, 29 U.S.C. § 203(r)(1), and the Class members, including the Named Plaintiffs, were "employees" of the Defendants within the meaning of Section 3(d) of the FLSA.

19. Likewise, during all times relevant to the allegations made in this Complaint, Defendants were an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), as they collectively manufacture and distribute snack foods to retail stores in South Carolina and other states.

20. This Court has subject matter jurisdiction over the FLSA claims pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331; this Court has supplemental jurisdiction over the SCPWA claims under 28 U.S.C. § 1367.

21. Venue is proper in this district and division under 28 U.S.C. §§ 1391(b)(2) and 1391(c) because a substantial part of the events giving rise to this claim, including the work performed by the Named Plaintiffs for Snyder's, occurred in this division.

22. As described herein, Defendants were at all times doing, and remain now actively doing, business within this jurisdiction and division, and therefore Defendants are subject to this Court's personal jurisdiction with respect to these claims.

## FACTS

23. Snyder's is a snack product development and sales company. Serving customer accounts and helping to maintain the appropriate the stock of "Snyder's of Hanover," "Lance," and other snack products that Snyder's retail customers possess is an important and integral part of Snyder's core operations and daily business.

24. Snyder's acknowledges in public records that it directly employs stocking clerks in the normal course of its business, and it has provided those persons with the wages, benefits, rights, and privileges owed to employees under state and federal law and Snyder's own employment policies and procedures. Snyder's refers to this admittedly-employed workforce as its "direct distribution network," which represents one of the two parts of Snyder's so-called "National Distribution Network." In fiscal year 2015, Snyder's estimated that approximately 30% of its net sales were accomplished through the efforts of its "direct distribution network." Pursuant to its policies and procedures, Snyder's in fact provides wages and compensation to these stocking clerks, and upon information and belief, these payments exceeded \$7.25 per hour during the past three (3) years immediately preceding this lawsuit.

25. Snyder's is also an employer of thousands of stocking clerks across the United States that receive snack foods (e.g., "Snyder's of Hanover," "Lance," and other brands) from Snyder's employees at Snyder's warehouses, take those snacks to Snyder's "central billing customers," and provide stocking and account service support for Snyder's business with these customers; yet, Snyder's does not recognize these stocking clerks as employees or provide these stocking clerks – which include the Named Plaintiffs and the Class in South Carolina – the wages, benefits, rights, and privileges owed to employees under the SCPWA, the FLSA or those it provides to its recognized employees performing the same job responsibilities as these

unrecognized stocking clerks.

26. Snyder's refers to this group of unrecognized employees – including the Named Plaintiffs and the Class – as its “direct-store-delivery distribution network,” or “DSD network.” The DSD network is the larger, second part of Snyder's so-called “National Distribution Network.” In fiscal year 2015, Snyder's estimated that approximately 70% of its net sales were accomplished through the efforts of the workers that make up its DSD network. This work is, therefore, necessary and essential to Snyder's core business.

27. The primary duties of these unrecognized workers within the DSD network, including the Named Plaintiffs and the Class, are delivering Snyder's products to stores, placing orders by hitting buttons on Snyder's handheld devices, talking to in-store receiving clerks, removing expired products from shelves and storage, and stocking shelves, among other non-exempt tasks.

28. While Snyder's enters into agreements with so-called “Distributors” – companies that contract with Snyder's to buy products from Snyder's for resale to retailers – Snyder's also contracts directly with a number of its own customers, often referred to by Snyder's as its “central billing customers.” These are typically large retail store operations, e.g., Wal-Mart, and large grocery store chains, e.g., Food Lion, Bi-Lo, and Piggly Wiggly.

29. The volume of snacks that Snyder's sells to these central billing customers is substantial and a core part of Snyder's business. For example, in 2016, 52% of Snyder's net revenue, excluding sales of its products made by third-party distributors outside of its DSD network, came from its top ten retail customers.

30. Snyder's negotiates directly with its central billing customers, thereby establishing the price and terms whereby it sells to and stocks snack foods for these retained customers. The

DSD network workers are not a party to these negotiations or agreements in any manner, either directly or indirectly.

31. Snyder's business model includes placing as much of its own account servicing responsibilities as possible on the stocking clerks working within its DSD network, including the Class in South Carolina. This is a part of an intentional scheme employed by Snyder's to service its retained customers at a lower cost and higher profit margin, achieved in part by intentionally denying the stocking clerks working within the DSD network the wages, benefits, rights, and privileges Snyder's owes employees under the law and that Snyder's provides to its recognized employees.

32. Despite efforts to obfuscate its employment relationship with the DSD network Named Plaintiffs and the Class by attempting to form "independent contractor" relationships with companies that are so-called "Distributors," Snyder's in fact retains full control over how the Named Plaintiffs and the Class perform their duties when servicing Snyder's central billing customers.

33. Additionally, Snyder's monitors and controls the daily performance of the Named Plaintiffs and the Class, as follows;

- a. Snyder's possesses and exercises the right to approve and disprove the customers who the workers in the DSD network service, and it exercises this right at its own discretion.
- b. Snyder's determines who will and will not be a central billing customer, and it routinely rejects any efforts by its corporate "Distributors" to reclassify customers.
- c. Snyder's determines and directly negotiates the following with its central billing customers: the initial or continued right to carry Snyder's products in the



customer's store; the price of Snyder's products; if and when a product promotion will run; how Snyder's products are advertised; the terms of the product promotion; how much shelf space is allocated for products; authorization for new items; authorization for price changes; which of Snyder's products are carried by the customer; how much product must be placed in a display; and where Snyder's products are placed in the store.

- d. Snyder's directly controls the pricing for all sales of "Snyder's of Hanover," "Lance," and other products to its central billing customers – something it does not do for the customers of the corporate "Distributors" that are not Snyder's central billing customers. For central billing customers, the corporate "Distributors" are not even noted in Snyder's system as the account "representative."
- e. Snyder's requires the DSD network workers to make scheduled deliveries and specific sales to the central billing customers, even if those sales generate an operating loss for the corporate "Distributors" in its DSD network, which occurs in the case of some of Snyder's central billing customers, e.g., Wal-Mart.
- f. Snyder's prohibits DSD network workers from ceasing to support its central billing customers.
- g. When sales to a central billing customer result in a loss to a corporate "Distributor" that is a part of Snyder's DSD network, Snyder's unilaterally makes an offset to that "Distributor's" account with Snyder's, determined by an undisclosed method that Snyder's unilaterally believes to be appropriate to compensate those companies for the loss; this fact demonstrates that it is Snyder's, and not the corporate "Distributor," who is at risk for the business gain or loss on the central billing

customer account.

- h. Through a practice known as “cross-dock,” DSD network workers are occasionally required by Snyder’s to perform the stocking and account servicing requirements of those working within Snyder’s “direct distribution network.”
- i. Snyder’s generates a store “plan” for central billing customers, and both the corporate “Distributors” and the workers within the DSD network are left out of the decision of what to deliver or buy back from the central billing customer; most of these decisions are directly communicated by Snyder’s to the DSD network employees through the hand-held computer system that Snyder’s provides to its corporate “Distributors” for use by Named Plaintiffs and the Class.
- j. Snyder’s directly bills its central billing customers, and Snyder’s is solely responsible for extending credit and taking on the credit risk associated with its central billing customers.
- k. Snyder’s employs office and supervisory personnel who work at their warehouses in South Carolina, as well as other locations and offices around the country. These persons track the sales being performed by Named Plaintiffs and the Class, and they verbally harangue Named Plaintiffs and the Class if those workers make a “call” on a customer without actually making a sale.
- l. Those working within the DSD network report to individuals employed by Snyder’s as “District Managers” in their respective districts regarding the work performed for central billing customers; for example, Robin Tyree is the District Manager of Snyder’s to whom the Named Plaintiffs report. The District Managers communicate “plans” (also called “planogram” (“pog”) or “mod”), via email to

those working in the DSD network.

- m. Snyder's retains the right, at its sole discretion, to prevent the corporate "Distributors" and persons working within the DSD network from selling any products to its customers if S-L decides it interferes with S-L's other commitments or obligations.
- n. Snyder's communicates directly with the central billing customers regarding the terms of service whereby the Class stocks the snack foods sold to them, such as its instructions to the DSD network workers regarding Snyder's Circle K account in South Carolina.
- o. Snyder's retains the right to determine how and where the Named Plaintiffs and the Class can pick up the snack food orders for its central billing customers.
- p. Snyder's controls all the advertising that is used or may be used by those working within the DSD network.
- q. Snyder's retains the right to terminate its corporate "Distributor's" so-called "relationship" with a Snyder's customer if a customer requires or requests the sale of a product from some other form or channel of distribution from Snyder's; in that event, the "Distributor's" remedy is a payment determined at the discretion of Snyder's.
- r. Snyder's monitors those working within the Named Plaintiffs and the Class through full, weekly accountings to it of the stocking and sales activities performed by the workers.
- s. Snyder's retains the right to determine whether the "Distributor" is maintaining satisfactory services or is failing to meet the requirements of its customers in the

Territory and take over all sales and deliveries to customers.

- t. When central billing customers have changes to the terms of their purchase and receipt of snack foods, Snyder's handles these communications with the customers and issues mandates regarding the terms of servicing Snyder's customers; if "Distributors" attempt to refuse these directives, then Snyder's coerces compliance with the contractual leverage it holds against those companies.
- u. Snyder's retains a security interest in all products, accounts receivables, equipment, inventory, goods and supplies that the DSD network workers utilize.
- v. Snyder's often allows the vehicles used by DSD network workers to be marked and labeled with Snyder's intellectual property;
- w. As it relates to its central billing customers, Snyder's retains and exercises the power to control what tools, such as computer hardware and software, the Named Plaintiffs and the Class use to communicate its sales activities to Snyder's.
- x. Snyder's performs its updates daily and loads product and pricing data into the handheld computers used by the workers in the DSD network.

34. The Named Plaintiffs and, upon information and belief, the other members of the Class, often work more than 45 hours per week for Snyder's servicing Snyder's central billing customers. Yet, Snyder's fails to pay the Named Plaintiffs and the other members of the Class either: (a) the wages, compensation, and benefits that Snyder's pays, pursuant to its employment policies, to the similarly situated stocking clerks and account representatives that Snyder's recognizes as employees; or (b) the federal minimum wage of \$7.25 per hour or any overtime as required by the FLSA.

35. State regulators have questioned whether Snyder's is improperly categorizing these

stocking clerks, who work within Snyder's DSD network, as "independent contractors" instead of employees. For example, according to Snyder's, the Employment Development Department of the State of California began an audit of one of its subsidiaries in 2016 to determine whether the persons Snyder's considers to be "Independent Business Operators" and who received 1099s from Snyder's are bona-fide contractors within the definition of an employer/employee relationship under the relevant statutes and regulations in California or whether those persons are in fact employees under California law.

36. At all relevant times, Snyder's was fully aware that the extent of its direction and control over the manner and means whereby the Named Plaintiffs and the Class make deliveries to its central billing customers render them the employees of Snyder's under cases such as Rutherford Food Corp. v. McComb, 331 U.S. 722 (1947); Nationwide v. Darden, 503 U.S. 318 (1992) (contrasted the "striking breadth" of the FLSA's definition of "employee" with other statutes that define the term more narrowly); Schultz v. Capital International Security, Inc., 466 F.3d 298 (4th Cir. 2006); Butler v. Drive Automotive Industries of America, Inc., 793 F.3d 404 (4th Cir. 2015); and other authorities. Nevertheless, Snyder's has knowingly, willfully, and recklessly continued to deny the Class, including the Named Plaintiffs, both: (a) the wages, compensation, and benefits that Snyder's pays, pursuant to its employment policies, to the similarly situated stocking clerks and account representatives that Snyder's recognizes as employees; or (b) the federal minimum wage of \$7.25 per hour or any overtime as required by the FLSA.

### **CLASS ACTION ALLEGATIONS**

37. The Named Plaintiffs bring this action as a class action on behalf of the Class, which is defined as follows:

All individuals in South Carolina who have worked to deliver and/or handle the stock of “Snyder’s of Hanover,” “Lance” and other brands goods sold for Snyder’s to its central billing customers in South Carolina during the three (3) years immediately preceding this lawsuit and who have not received wages due them, including the federal minimum wage, overtime pay, and the compensation provided by Snyder’s to its recognized employees performing the same tasks, due to them under the SCPWA and the FLSA during that time.

38. The Class specifically does not include any individuals covered by the class action settlements in Tavares, et al. v. S-L Distribution Company, Inc., et al., 1:13-cv-01313-JEJ (USDC, M.D. Pa.); Roxberry, et al. v. S-L Distribution Company, Inc., et al., 1:16-cv-02009-JEJ (USDC, M.D. Pa.); or Bankalter, et al. v. S-L Distribution Company, Inc., et al., 2017-SU-000549 (Pa. Common Pleas, York County).

39. The Named Plaintiffs are “similarly situated” with the other Class members as contemplated by 29 U.S.C. § 216(b) because *inter alia*, all such individuals currently work or worked pursuant to Snyder’s previously described common business and compensation practices as described herein, and, as a result of such practices, have been misclassified as non-employees and have not been paid the fully and legally mandated wages for all hours worked. Resolution of this action requires inquiry into common facts including, but not limited to, Snyder’s common misclassification, compensation and payroll practices and its contracts and dealings with central billing customers as described more fully above.

40. No violations are a result of any oral communications or individualized interaction between Plaintiffs and S-L. All policies and actions challenged herein are uniform policies directed towards and relating to the Class as a whole. This class arises from the uniform policies and practices of Defendants as described herein.

41. Class action treatment of the Named Plaintiff’s SCPWA claim is further appropriate because all of Federal Rule of Civil Procedure 23’s class action requisites are satisfied.

42. Specifically, the Class is known to include over 50 individuals in South Carolina,

because there are several territories in South Carolina under Snyder's DSD network, and the Named Plaintiffs know that over seventeen (17) individuals work in their "Myrtle Beach" territory alone.

43. The Class members are readily ascertainable based on Defendants' payroll records and business records discussed herein and are so numerous that joinder of all class members is impracticable.

44. Likewise, the Named Plaintiffs' claims are typical of the Class; they are identical, arising from the same factual and legal basis as those of the Class. The Named Plaintiffs are informed and believe that, like other unrecognized stocking clerk employees of Snyder's, the Named Plaintiffs were misclassified and uncompensated when they were and should have been treated in all respects as statutory and common law employees of Snyder's. As such, they were deprived the wages due to them under Snyder's employment policies and the protections afforded of their employee status under the FLSA and SCPWA. All Named Plaintiffs had essentially the same duties and responsibilities as other Class members with regard to performing deliveries for Snyder's clients and were subject to the same policies and practices. All Class Members have been injured by the same actions of Snyder's and in the same manner.

45. There are common questions of law and fact affecting the rights of all Class Members, including, inter alia, the following:

- a. Determining the nature Snyder's policies and procedures regarding employee compensation for recognized employees working as stocking clerks and account representatives over the immediate past three (3) years;
- b. Determining the nature of Snyder's relationship with its "central billing customers";

- c. Determining whether the members of the Class are employees of Snyder's and are entitled to declaratory relief declaring they are employees of Snyder's;
- d. Determining whether members of the Class are entitled to certain types of employee compensation and benefits because they are employees of Snyder's as defined by the SCPWA and the FLSA;
- e. Determining whether Snyder's has knowingly, willfully, or recklessly violated the rights of the Class under the SCPWA and the FLSA;
- f. Determining whether the members of the Class are entitled to recover treble damages, costs, and attorneys' fees from Snyder's pursuant to S.C. Code Ann. § 41-10-80(C); and
- g. Determining whether Snyder's has properly paid state and federal taxes payable by it on behalf of the Class.

46. Therefore, class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Snyder's has recognized this fact through settling similar claims by putative class members in other states on a certified-class basis.

47. The Named Plaintiffs do not possess any interest antagonistic to, or in conflict with, other members of the Class. They will thoroughly and adequately protect the interests of the Plaintiffs, having retained qualified and competent legal counsel to represent them and the Class. Moreover, Named Plaintiffs' counsel has experience working with and would seek the appointment of Orran Brown of Brown Greer PLC (or another qualified administrator) to assist with class claims administration and any potential class settlement administration in this matter.



48. Snyder's has acted and refused to act on grounds generally applicable to the Class, thereby making appropriate declaratory relief for the class as a whole.

49. Because Snyder's continues to use a uniform scheme involving agreements with corporate "Distributors" to obfuscate its employment relationships with the Class, the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications. In addition, litigating these claims in a single action would streamline discovery and would avoid needless repetition of evidence at trial.

**FOR A FIRST CAUSE OF ACTION**  
**(Declaratory Judgment - 28 U.S.C. § 2201)**

50. Named Plaintiffs incorporate the above paragraphs as if fully set forth herein.

51. Pursuant to 28 U.S.C. § 2201, et seq., an actual controversy and dispute exists between the Class and Snyder's regarding the Class' status as employees of Snyder's during the three (3) years preceding this lawsuit and the amount of lost wages and compensation due to the Class as employees of Snyder's during that time.

52. Therefore, the Class is entitled to declaratory relief declaring that their legal relationship with Snyder's is that of employee and employer under the FLSA and the SCPWA, entitling them to the protection of those statutes and all of the compensation and wages due to Snyder's employees.

53. Additionally, the Class is entitled to declaratory relief stating the rate of compensation due to the Class under the law and Snyder's own employment policies and procedures for similarly situated employees recognized by Snyder's during the past three (3) years immediately preceding this Complaint.

**FOR A SECOND CAUSE OF ACTION**  
**(Violation of the SCPWA)**

54. Named Plaintiffs incorporate the above paragraphs as if fully set forth herein.

55. At all times in the past four (4) years immediately preceding this Complaint, Snyder's has employed more than five (5) employees.

56. At some time in the past three (3) years immediately preceding this lawsuit, Snyder's has been the "employer" of each Member of the Class, including the Named Plaintiffs, as defined by S.C. Code Ann. § 41-10-10(1).

57. Upon information and belief, Snyder's has adopted employment policies and procedures that set forth the amount of "wages," as defined by S.C. Code Ann. § 41-10-10(1), that it has paid its recognized employees over the past three (3) years and who are similarly situated in all material respects to the Class Members.

58. Snyder's has failed to provide the "wages," as defined in S.C. Code Ann. § 41-10-10(1), that it owes to the Class pursuant to its own employment policies and procedures applicable to recognized employed stocking clerks and account representatives who have performed substantially the same duties as the Class members during the past three (3) years.

59. Therefore, Snyder's has failed to comply with S.C. Code Ann. § 41-10-40 and 50 with respect to the Class and are in violation of the SCPWA.

60. Snyder's failure to comply with S.C. Code Ann. § 41-10-40 and 50 was knowingly, willfully and with reckless disregard of clearly applicable South Carolina law requiring it to pay "wages" to the Class members.

61. Therefore, the Class, including the Named Plaintiffs, are entitled to payment from Snyder's of wages lost, an additional payment equal to two (2) times the wages lost as liquidated damages, reasonable attorneys' fees, and costs, as well as the equitable remedy of an accounting

by Defendants to determine what is the amount of compensation owed in unpaid wages to the Class.

**IN THE ALTERNATIVE, FOR A THIRD CAUSE OF ACTION**  
**(Violation of the FLSA – Failure to pay minimum wage and overtime)**

62. Named Plaintiffs incorporate the above paragraphs as if fully set forth herein.

63. Defendants constitute a single enterprise pursuant to 29 USC § 203(r)(1).

64. Defendants are subject to the wage requirements of the FLSA because Defendants are employers under 29 USC § 203(d).

65. At all relevant times, the Class consists solely of covered employees entitled to FLSA protections.

66. At all relevant times, Defendants have been engaged in interstate commerce and/or in the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 203.

67. No person in the Class is exempt from the requirements of the FLSA.

68. The Class is entitled to be paid both the applicable minimum wage of \$7.25 for all hours worked for the Defendants under 40 hours per 29 U.S.C. § 206(a)(1)(C) and an overtime premium rate of 150 percent of the regular rate for all hours worked over 40 hours in a work week per 29 U.S.C. § 207(a)(1).

69. Defendants do not maintain accurate records of all hours that the members of the Class worked each work day and the total number of hours worked each work week as required by the FLSA.

70. During their employment with Defendants, Named Plaintiffs and the Class often worked in excess of 45 hours in each work week for the Defendants.

71. Defendants knowingly, willfully, and with reckless disregard, violated the FLSA's minimum wage requirement with respect to hours worked under 40 because the Named Plaintiffs

and Class received no wages from the Defendants.

72. Defendants knowingly, willfully, and with reckless disregard failed to pay the Named Plaintiffs and the Class an overtime rate of 150 percent of the regular rate for all hours worked over 40 in a work week in violation of the FLSA.

73. Therefore, the Named Plaintiffs and the Class are entitled to payment of wages lost, an additional equal amount as liquidated damages, reasonable attorneys' fees, and costs, as well as the equitable remedy of an accounting by Defendants to determine what is the minimum amount of compensation owed in unpaid wages to the Class.

### **PRAYER FOR RELIEF**

WHEREFORE, the Named Plaintiffs hereby demand a jury trial on all causes of action and request the entry of judgment as follows in favor of themselves and all others similarly situated members of the Class defined herein:

a. An order permitting this litigation to proceed as an opt-in class action pursuant to 29 U.S.C. § 216(b) and Fed. R. Civ. P. Rule 23.

b. Declaratory judgment stating that Snyder's has improperly failed to treat the Named Plaintiff and the Class as employees under the FLSA and the SCPWA during the three (3) years immediately preceding this Complaint;

c. Declaratory judgment stating the rate of compensation due to the Class under the law and Snyder's own employment policies and procedures for similarly situated employees recognized by Snyder's during the past three (3) years immediately preceding this Complaint;

d. An award of payment of all unpaid wages due to the Class members, plus an additional amount equal to two (2) times the wages lost as liquidated damages, owed pursuant to Snyder's own policies and procedures and due under the SCPWA;

- e. In the alternative, payment of all unpaid minimum wages and overtime wages due to the Class members under the FLSA, plus an additional equal amount as liquidated damages;
- f. An award of costs and reasonable attorneys' fees;
- g. An aware of prejudgment interest; and
- h. Such other legal or equitable remedy as the court may deem just and proper, including any appropriate injunctive relief and the remedy of an accounting.

Respectfully submitted for the Plaintiffs on July 17, 2018, by:

s/ Shaun C. Blake

Shaun C. Blake (S.C. Fed. Bar #10358)

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