

5. Defendant denies the allegations in Paragraph 5 as conclusions of law to which no response is required.

6. Admitted.

7. Denied.

8. Defendant denies the allegations in Paragraph 8 as conclusions of law to which no response is required.

FACTS

9. Denied.

10. Denied.

11. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 11 and therefore denies the same.

12. Denied.

13. Denied.

14. Defendant denies the allegations in Paragraph 14 as conclusions of law to which no response is required.

15. Denied.

16. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 16 and therefore denies the same.

17. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 17 and therefore denies the same.

COLLECTIVE AND CLASS ALLEGATIONS

18. Defendant admits that Plaintiff purports to bring a collective action under the FLSA as described. Defendant denies the remaining allegations in Paragraph 18 as conclusions of law to which no response is required.

19. Defendant denies the allegations in Paragraph 19 as conclusions of law to which no response is required.

20. Defendant admits that Plaintiff purports to bring a class action under the PMWA and GPB as described. Defendant denies the remaining allegations in Paragraph 20 as conclusions of law to which no response is required.

21. Defendant denies the allegations in Paragraph 21 as conclusions of law to which no response is required.

22. Defendant denies the allegations in Paragraph 22 as conclusions of law to which no response is required.

23. Defendant denies the allegations in Paragraph 23 as conclusions of law to which no response is required.

24. Defendant denies the allegations in Paragraph 24 as conclusions of law to which no response is required.

25. Defendant denies the allegations in Paragraph 25 as conclusions of law to which no response is required.

COUNT I
(Alleging Violations of the FLSA)

26. Defendant incorporates herein by reference its answers to Paragraphs 1 through 25 of the Complaint as though fully set forth herein.

27. Defendant denies the allegations in Paragraph 27 as conclusions of law to which no response is required.

28. Defendant denies the allegations in Paragraph 28 as conclusions of law to which no response is required.

29. Denied.

30. Denied.

COUNT II
(Alleging Violations of the PMWA)

31. Defendant incorporates herein by reference its answers to Paragraphs 1 through 30 of the Complaint as though fully set forth herein.

32. Defendant denies the allegations in Paragraph 32 as conclusions of law to which no response is required.

33. Defendant denies the allegations in Paragraph 33 as conclusions of law to which no response is required.

34. Denied.

COUNT III
(Alleging Violations of the GPB)

35. Defendant incorporates herein by reference its answers to Paragraphs 1 through 34 of the Complaint as though fully set forth herein.

36. Defendant denies the allegations in Paragraph 36 as conclusions of law to which no response is required.

37. Defendant denies the allegations in Paragraph 37 as conclusions of law to which no response is required.

38. Defendant denies the allegations in Paragraph 38 as conclusions of law to which no response is required.

39. Denied.

PRAYER FOR RELIEF

Defendant denies the allegations in the Prayer for Relief as conclusions of law to which no response is required. To the extent said allegations do not constitute conclusions of law, Defendant denies that Plaintiff or the other individuals that she seeks to represent are entitled to any relief in this action.

AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses without assuming the burden of proof on such defenses that would otherwise rest with Plaintiff. Defendant reserves the right to amend this Answer and assert additional Affirmative Defenses based upon information obtained during pretrial discovery in this action.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails, in whole or in part, to state a claim upon which relief may be granted against Defendant.

SECOND AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The Court lacks jurisdiction over some or all of Plaintiff's claims and/or the claims of the any putative collective or class action members.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrines of unclean hands, waiver, estoppel, and laches, and/or other equitable defenses.

FIFTH AFFIRMATIVE DEFENSE

Defendant is not liable to the extent that it did not employ Plaintiff or any putative collective or class action member and is not otherwise liable to those individuals for the employment actions and practices of which Plaintiff complains.

SIXTH AFFIRMATIVE DEFENSE

Defendant did not violate any duty to, or right of, named Plaintiff or any putative collective or class action members.

SEVENTH AFFIRMATIVE DEFENSE

The claims of Plaintiff are barred to the extent that Plaintiff has failed to mitigate her damages or otherwise avoid them.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because all actions of the Defendant were proper, privileged, justified, and undertaken in a good faith belief that the acts and omissions, if any, affecting Plaintiff were made solely for legitimate job-related reasons and consistent with business necessity.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are not appropriate for class certification pursuant to Rule 23 of the Federal Rules of Civil Procedure or under Pennsylvania law.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's FLSA claims are not suitable for a collective action because named Plaintiff is not "similarly situated" to putative class members.

ELEVENTH AFFIRMATIVE DEFENSE

If any alleged failure to pay the wages or tips of named Plaintiff and any putative collective or class action members was unlawful, which Defendant denies, none of Defendant's alleged actions or omissions constitute a willful violation of the FLSA, PMWA, GPB, or any other law.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff and any putative collective or class action members are not entitled to equitable relief insofar as they have an adequate remedy at law.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's and any putative collective or class action members' claims are barred in whole or in part, by exclusions, exceptions, credits, or offsets permissible under the FLSA, PMWA, and GPB.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's and any putative collective or class action members' claims for damages are limited because Defendant acted in good faith at all times.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff and any putative collective or class action members were compensated for all hours worked in accordance with applicable laws.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff and any putative collective or class action members voluntarily agreed to the practices complained of in the Complaint.

SEVENTEENTH AFFIRMATIVE DEFENSE

Even if not applicable to Plaintiff, some or all of the defenses asserted above may be applicable to one or more of the putative collective or class action members whom Plaintiff may seek to represent. In the event that any attempt is made to certify a class in this action, Defendant reserves the right to identify and advance any further additional defenses that may apply to persons other than the named Plaintiff herein.

WHEREFORE, Defendant requests that the Court enter judgment in its favor and against Plaintiff on all counts and award it costs, attorney fees' and expenses in this action, and such other relief as this Court may deem just and proper.

Respectfully submitted,

Date: March 10, 2017

/s/David S. Fryman
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CERTIFICATE OF SERVICE

I, David S. Fryman, hereby certify that, on this day, the foregoing Answer to the Class/Collective Action Complaint was filed and served electronically and is available for viewing and downloading from the ECF system.

Date: March 10, 2017

/s/ David S. Fryman

David S. Fryman