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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

Bonnie J. Pasquale, on behalf of herself and all  
others similarly situated,

Plaintiff,

vs.

Tropicana Atlantic City Corporation d/b/a  
Tropicana Casino Resort

Defendant.

Case No. 1:20-CV-06909-NLH-KMW

**DEFENDANT’S ANSWER TO  
PLAINTIFF’S COMPLAINT**

Defendant Tropicana Atlantic City Corporation d/b/a Tropicana Casino Resort (“Tropicana Atlantic City”), by and through their attorneys, respond to Plaintiff Bonnie Pasquale’s (“Plaintiff”) Complaint states as follows:

1. Plaintiff and all other similarly situated employees work or worked for Defendant, a casino located in Atlantic City, New Jersey.

**ANSWER: In response to the allegations contained in Paragraph 1 of Plaintiff’s Complaint, Tropicana Atlantic City states that it does not know what Plaintiff means by the phrase “similarly situated,” and therefore lacks knowledge or information sufficient to admit or deny the allegation containing that reference. Responding further, Tropicana**

**Atlantic City admits that Plaintiff worked for Tropicana Atlantic City, and admits that Tropicana Atlantic City is a casino located in Atlantic City, New Jersey.**

2. Pursuant to its casino-wide policies and procedures, Defendant failed to pay Plaintiff, and other similarly situated employees, the mandated federal minimum wage rate for all hours worked and overtime for all hours worked over 40 in a single workweek.

**ANSWER: Tropicana Atlantic City denies the allegations of Paragraph 2 of Plaintiff's Complaint.**

3. In particular, Defendant's time-clock rounding policy, procedure, and practice is used in such a manner that it results, over a period of time, in the failure to compensate its employees properly for all time worked, including overtime hours. In addition, Defendant failed to properly inform its tipped employees of the required tip credit provisions prior to paying a sub-minimum direct cash wage. Defendant also miscalculated its employees' regular rate of pay for overtime purposes, resulting in unpaid overtime compensation.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 3 of Plaintiff's Complaint.**

4. Defendant's systemic violations of federal wage laws were willful.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 4 of Plaintiff's Complaint.**

5. Plaintiff, individually and on behalf of all others similarly situated, brings this lawsuit as a collective action under the Fair Labor Standards Act, ("FLSA"), 29 U.S.C. § 201, *et seq.*, to recover unpaid wages owed to Plaintiff and all other similarly situated workers employed by Defendant.

**ANSWER: The allegations contained in Paragraph 5 of Plaintiff's Complaint purport to summarize Plaintiff's claims, to which no admission or denial is required of Tropicana Atlantic City. To the extent they are read to assert any viable claim for relief, Tropicana Atlantic City denies the allegations contained in Paragraph 5 of Plaintiff's Complaint.**

**JURISDICTION AND VENUE**

6. The FLSA authorizes court actions by private parties to recover damages for violation of the FLSA's wage and hour provisions. This Court possesses subject matter jurisdiction over Plaintiff's FLSA claims based upon 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

**ANSWER: Paragraph 6 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

7. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this claim occurred in this judicial district and Defendant is subject to personal jurisdiction in this district.

**ANSWER: Paragraph 7 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

**PARTIES**

8. Plaintiff is an individual residing in Pleasantville, New Jersey.

**ANSWER: Tropicana Atlantic City lacks knowledge or information sufficient to admit or deny the allegations contained in Paragraph 8 of Plaintiff's Complaint.**

9. From approximately April 2015, through July 2018, Plaintiff was employed by Defendant at its casino property located at 2831 Boardwalk, Atlantic City, New Jersey 08401. During her employment, Plaintiff worked as a Table Games Dealer, which is an hourly, non-

exempt position. Plaintiff's executed Consent to Join pursuant 29 U.S.C. 216(b) is attached hereto and incorporated herein as Exhibit A.

**ANSWER: Tropicana Atlantic City admits that it employed Plaintiff from approximately April 2015 until July 2018 as a Table Games Dealer—an hourly, non-exempt position—at its casino located at 2831 Boardwalk, Atlantic City, New Jersey 08401. Responding further, Tropicana Atlantic City states that the Consent referenced in Paragraph 9 is a written document that speaks for itself. Thus, no admission or denial is required of Tropicana Atlantic City with respect to any allegations related to that Consent.**

10. Defendant is a corporation organized under the laws of the State of New Jersey, with its principal place of business in Atlantic City, New Jersey. Defendant is a wholly-owned subsidiary of Tropicana Entertainment, Inc., which is the sole shareholder.

**ANSWER: Tropicana Atlantic City admits that it is a corporation organized under the laws of the State of New Jersey and that its principal place of business is located in Atlantic City, New Jersey. Answering further, Tropicana Atlantic City states that it is a wholly-owned subsidiary of Tropicana Entertainment, Inc., which is a wholly-owned subsidiary of Eldorado Resorts, Inc. Tropicana Atlantic City denies any allegations contained in Paragraph 10 that are inconsistent with this response, and denies all allegations contained in Paragraph 10 unless specifically admitted herein.**

11. At all relevant times, Defendant was the employer of Plaintiff, and all other similarly situated employees.

**ANSWER: In response to the allegations contained in Paragraph 11 of Plaintiff's Complaint, Tropicana Atlantic City states that it does not know what Plaintiff means by the phrase "similarly situated," and therefore lacks knowledge or information sufficient to**

**admit or deny the allegation containing that reference. Responding further, Tropicana Atlantic City admits that it employed Plaintiff from approximately April 2015 until July 2018.**

12. At all times relevant to this action, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

**ANSWER: Paragraph 12 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City. To the extent a response is required, Tropicana Atlantic City states that it does not know what actions Plaintiff is referring to when she states that Tropicana Atlantic City's agents, servants, and employees acted in the course and scope of their employment and therefore lacks knowledge or information sufficient to admit or deny all such allegations.**

13. Plaintiff and all similarly situated employees are non-exempt, hourly employees who work or worked for Defendant within the applicable limitations periods.

**ANSWER: Paragraph 13 of Plaintiff's Complaint purports to summarize Plaintiff's putative class, to which no response is required of Tropicana Atlantic City.**

#### OVERVIEW OF PLAINTIFF'S CLAIMS

14. Defendant utilizes a computerized system which tracks the exact time (by the minute) an hourly employee clocks in and clocks out of work.

**ANSWER: Tropicana Atlantic City admits the allegations contained in Paragraph 14 of Plaintiff's Complaint.**

15. Even though Defendant maintains a system which records, to the minute, the time an employee clocks in and clocks out, Defendant utilizes a rounding system in computing payroll which rounds to the closest 15-minute interval.

**ANSWER: Tropicana Atlantic City admits the allegations contained in Paragraph 15 of Plaintiff's Complaint, as it relates to hourly, non-exempt employees. Tropicana Atlantic City denies any allegations contained in Paragraph 15 that are inconsistent with this response, and denies all allegations contained in Paragraph 15 unless specifically admitted herein.**

16. For example, an employee who clocks in between 7:53 a.m. and 8:07 a.m. will be treated by Defendant's payroll system as having clocked in at 8:00 a.m.

**ANSWER: Tropicana Atlantic City admits that it utilizes timekeeping software that rounds hourly, non-exempt employees' actual clock-in/out times up or down by up to seven minutes, to the nearest quarter hour. Tropicana Atlantic City denies any allegations contained in Paragraph 16 that are inconsistent with this response, and denies all allegations contained in Paragraph 16 unless specifically admitted herein.**

17. Defendant utilizes the same rounding system for clock outs.

**ANSWER: Tropicana Atlantic City admits that it utilizes timekeeping software that rounds hourly, non-exempt employees' actual clock-in/out times up or down by up to seven minutes, to the nearest quarter hour. Tropicana Atlantic City denies any allegations contained in Paragraph 17 that are inconsistent with this response, and denies all allegations contained in Paragraph 17 unless specifically admitted herein.**

18. For example, an employee who clocks out between 5:08 p.m. and 5:22 p.m. will be treated by Defendant's payroll system as having clocked out at 5:15 p.m.

**ANSWER: Tropicana Atlantic City admits that it utilizes timekeeping software that rounds hourly, non-exempt employees' actual clock-in/out times up or down by up to seven minutes, to the nearest quarter hour. Tropicana Atlantic City denies any allegations contained in Paragraph 18 that are inconsistent with this response, and denies all allegations contained in Paragraph 18 unless specifically admitted herein.**

19. Viewed in a vacuum, the rounding system utilized by Defendant appears to neither favor Defendant nor its employees as Defendant utilizes the same rounding system when an employee clocks in or out.

**ANSWER: In response to the allegations contained in Paragraph 19 of Plaintiff's Complaint, Tropicana Atlantic City states that it does not know what Plaintiff means by the phrase "[v]iewed in a vacuum," and thus cannot form an admission or denial as to that allegation. Responding further, Tropicana Atlantic City admits that its rounding system favors neither Tropicana Atlantic City nor its employees because it utilizes the same rounding system for hourly non-exempt employees when they clock in or out.**

20. However, Defendant utilizes an attendance and/or disciplinary policy to alter the seemingly neutral rounding system in a manner which transforms Defendant's rounding system into a system that is substantially rigged in Defendant's favor.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 20 of Plaintiff's Complaint.**

21. Pursuant to Defendant's policies, Plaintiff and all similarly situated employees are encouraged to clock in and commence work approximately 7 minutes before the start of their shift.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 21 of Plaintiff's Complaint.**

22. Pursuant to Defendant's policies, Plaintiff and all similarly situated employees are subject to discipline if they clock in after the start of their shift.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 22 of Plaintiff's Complaint.**

23. Pursuant to Defendant's policies, Plaintiff and all similarly situated employees may only clock out when authorized by their supervisor.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 23 of Plaintiff's Complaint.**

24. As a result of Defendant's policies, Plaintiff and all similarly situated employees typically clock in and begin working within 7 minutes prior to the start of their shift.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 24 of Plaintiff's Complaint.**

25. As a result of Defendant's policies, Plaintiff and all similarly situated employees do not typically clock in after the start of their shift, because if they do, they are subject to discipline.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 25 of Plaintiff's Complaint.**

26. Per Defendant's rounding system, none of the pre-shift work (up to 7 minutes per day) is paid as Defendant round this time to the next 15-minute interval, the employees' official start time.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 26 of Plaintiff's Complaint.**

27. Accordingly, at the start of an employee's shift, Defendant's rounding system is rigged in favor of Defendant because Defendant utilizes its attendance and/or disciplinary policies to ensure that, most of the time, the rounding which occurs at the start of the shift decreases the amount of compensable time Defendant pays its employees.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 27 of Plaintiff's Complaint.**

28. Moreover, Plaintiff and all similarly situated employees, at the end of the day, are required to clock out no more than 7 minutes after the end of their shift.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 28 of Plaintiff's Complaint.**

29. Plaintiff and all similarly situated employees do not typically leave work early; instead, they routinely leave work and clock out between the end of their shift and 7 minutes thereafter. This makes sense because it is solely Defendant's decision as to when Plaintiff and all similarly situated employees are permitted to leave their workstations. Because of this, Plaintiff and all similarly situated employees are unable to take advantage of the rounding system because they cannot decide to leave prior to the conclusion of their shift.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 29 of Plaintiff's Complaint.**

30. Accordingly, at the end of an employee's shift, Defendant's rounding system is rigged in favor of Defendant because the rounding which occurs at the end of their shift decreases the amount of compensable time Defendant pays its employees.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 30 of Plaintiff's Complaint.**

31. In sum, Defendant's time-clock rounding policy, procedure, and practice is used in such a manner that it results, over a period of time, in the failure to compensate its employees properly for all the time they have actually worked, including overtime wages.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 31 of Plaintiff's Complaint.**

32. Defendant has no good faith basis to use such a rigged rounding system as its time clocks record the actual clock in and clock out times to at least a one-minute accuracy. Defendant has complete knowledge of all hours worked by Plaintiff and all similarly situated employees.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 32 of Plaintiff's Complaint.**

33. Defendant's failure to pay this unpaid time has resulted in Plaintiff and all similarly situated employees being regularly denied proper compensation under the FLSA.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 33 of Plaintiff's Complaint.**

34. Plaintiff and all similarly situated employees, in conformance with Defendant's clock-in and clock-out policies, and attendance and/or disciplinary policies, regularly clocked in and commenced work several minutes before the start of their shifts.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 34 of Plaintiff's Complaint.**

35. Throughout Plaintiff's employment as a Table Games Dealer, she was paid a sub-minimum base wage for every hour worked. Thus, during each workweek in which Defendant did not pay her for all hours worked due to its time-clock rounding policy, Plaintiff's regular rate of pay fell below the requisite federal minimum wage (\$7.25/hour). Because the amount Plaintiff was paid during each of those workweeks divided by the number of hours she actually worked resulted in an amount less than the statutory requirement, Defendant violated the federal minimum wage requirements.

**ANSWER: In response to the allegations of Paragraph 35 of Plaintiff's Complaint, Tropicana Atlantic City states that, during her employment with Tropicana Atlantic City, Plaintiff's base hourly rate was below the federal minimum wage; however, Plaintiff received additional compensation in the form of tips such that she was ultimately paid no less than the federal minimum wage rate for every hour worked. Tropicana Atlantic City denies any suggestion that it violated the Fair Labor Standards Act or any other applicable law through its compensation of Plaintiff or any other employee. Tropicana Atlantic City denies any allegations contained in Paragraph 35 that are inconsistent with this response, and denies all allegations contained in Paragraph 35 unless specifically admitted herein.**

36. During those workweeks and others, Defendant's time-clock rounding policy caused Plaintiff and all similarly situated employees' wages to fall below the requisite federal minimum wage and/or caused them to incur overtime for which they were not compensated (for all hours worked over 40 in a single workweek).

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 36 of Plaintiff's Complaint.**

37. Under the FLSA, an employer may, in certain circumstances, take a “tip credit” toward its federal minimum wage obligations for tipped employees. Pursuant to the explicit language of the FLSA, a tip credit may not be taken “with respect to any tipped employee unless such employee has been informed by the employer of the provisions of [29 U.S.C. § 203(m)], and all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.” 29 U.S.C. § 203(m)(2).

**ANSWER: Paragraph 37 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

38. The federal regulations expand on the language of the FLSA by explaining as follows:

[A]n employer is not eligible to take the tip credit unless it has informed its tipped employees in advance of the employer’s use of the tip credit of the provisions of section 3(m) of the Act, i.e.: [1] The amount of the cash wage that is to be paid to the tipped employee by the employer; [2] the additional amount by which the wages of the tipped employee are increased on account of the tip credit claimed by the employer, which amount may not exceed the value of the tips actually received by the employee; [3] that all tips received by the tipped employee must be retained by the employee except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips; and [4] that the tip credit shall not apply to any employee who has not been informed of these requirements in this section.

*See* 29 C.F.R. § 531.59(b); *see also* U.S. Department of Labor, Wage and Hour Division, Fact Sheet #15: Tipped Employees Under the Fair Labor Standards Act (FLSA).

**ANSWER: Paragraph 38 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

39. Defendant employs Plaintiff and other similarly situated tipped employees and pays them a direct cash wage that is less than the FLSA’s federal minimum wage (\$7.25 per

hour) but failed to notify them of the tip credit requirements of the FLSA prior to paying a sub-minimum direct cash wage. Despite this violation of the FLSA's tip credit notice provisions, Defendant has taken a tip credit toward its obligations to pay the federal minimum wage to Plaintiff and other similarly situated tipped employees. During the relevant time period, Plaintiff was paid a direct cash wage less than \$7.25 per hour and Defendant improperly claimed a tip credit to bridge the gap between the direct cash wage and the required federal minimum wage. Thus, during Plaintiff's employment at Tropicana Casino Resort, Defendant failed to properly compensate Plaintiff for all hours worked at a rate equal to at least the required federal minimum wage.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 39 of Plaintiff's Complaint.**

40. Specifically, Plaintiff and other similarly situated employees are not informed, in advance of Defendant's use of the tip credit, of: (1) the additional amount by which the wages of the tipped employee are increased on account of the tip credit claimed by Defendant, which amount may not exceed the value of the tips actually received the employee; (2) that all tips received by the tipped employee must be retained by the employee except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips; and (3) that the tip credit shall not apply to any employee who has not been informed of these requirements in this section.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 40 of Plaintiff's Complaint.**

41. Likewise, when Defendant changes the amount of the tip credit it claims against its obligation to pay Plaintiff and other similarly situated employees the FLSA's required

minimum wage, Defendant does not inform Plaintiff and other similarly situated employees of the change in the amount of the tip credit claimed, as is required and must be in writing. *See* 29 CFR § 516.28(a)(3) (“The amount per hour which the employer takes as a tip credit shall be reported to the employee in writing each time it is changed from the amount per hour taken in the preceding week.”).

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 41 of Plaintiff’s Complaint.**

42. Defendant’s FLSA violations alleged herein were willful in that Defendant either knew of the specific FLSA requirements and prohibitions at issue at the time of the alleged violations and intentionally did not comply with them, or showed reckless disregard for the matter of whether its conduct violated the FLSA.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 42 of Plaintiff’s Complaint.**

43. As a result of Defendant’s above-described FLSA violations, Plaintiff and other similarly situated employees are entitled to recover from Defendant during the applicable three-year limitations period the amount of the sum of (1) the tip credit taken (*i.e.*, the difference between the direct cash wage and the required federal minimum wage), (2) an additional equal amount as liquidated damages, and (3) a reasonable attorneys’ fee and costs of this action.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 43 of Plaintiff’s Complaint.**

44. The FLSA requires that employees receive overtime pay at a rate not less than one and one-half times the regular rate at which they are employed for all hours worked over 40 in a single workweek.

**ANSWER: Paragraph 44 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

45. The FLSA permits an employer to take a “tip credit” toward its minimum wage obligations for tipped employees equal to the difference between the required cash wage and the federal minimum wage. Under federal law, a tipped employee must be paid a direct cash wage of at least \$2.13 per hour. Under federal law, if the hourly rate plus tips does not equal the applicable minimum wage per hour, the employer must make up the difference.

**ANSWER: Paragraph 45 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

46. However, where the employer takes the tip credit, overtime is calculated on the full minimum wage, not the sub-minimum direct hourly wage payment. The employer may not take a larger tip credit for an overtime hour than for a straight time hour.

**ANSWER: Paragraph 46 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

47. In addition, “where a higher minimum wage than that set in the [FLSA] is applicable to an employee by virtue of ... other legislation, the regular rate of the employee ... cannot be lower than such applicable minimum, for the words ‘regular rate at which he is employed’ ... must be construed to mean the regular rate at which he is lawfully employed.” 29 C.F.R. § 778.5.

**ANSWER: Paragraph 47 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

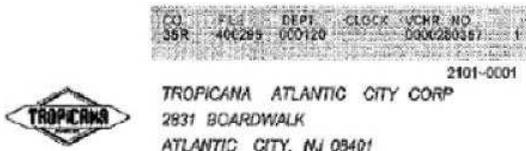
48. Federal regulations provide that “a tipped employee’s regular rate of pay includes the amount of tip credit taken by the employer ... Any tips received by the employee in excess of the tip credit need not be included in the regular rate.” 29 C.F.R. § 531.60.

**ANSWER: Paragraph 48 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

49. In calculating Plaintiff’s and other similarly situated employees’ overtime pay, Defendant first subtracted the tip credit from the applicable federal or state minimum wage. In other words, Defendant calculated the overtime rate by multiplying one and one-half times the sub-minimum direct hourly wage being earned. As a result, Plaintiff’s and other similarly situated employees’ overtime pay was not based on the proper regular rate of pay, resulting in violations of federal law in each week within the applicable limitations period in which Plaintiff and other similarly situated employees worked in excess of 40 hours in a workweek.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 49 of Plaintiff’s Complaint.**

50. For example, on her paycheck dated July 16, 2018 (pay date) – excerpted below, Defendant paid a direct cash wage of \$5.10 per hour to Plaintiff. During that pay period, Plaintiff received an overtime direct cash wage of \$7.65 per hour, for 8.00 hours of overtime worked.



CO: 775 DEPT: 000120 CLOCK: 000280387  
 SSN: 400295

**Earnings Statement**



Period Beginning: 06/30/2018  
 Period Ending: 07/06/2018  
 Pay Date: 07/16/2018

Taxable Marital Status: [REDACTED]  
 Exemptions/Allowances:  
 Federal: [REDACTED]  
 NJ: [REDACTED]

**BONNIE J PASQUALE**  
**REDACTED**

Earnings	rate	hours	this period	year to date
Regular	5.1000	11.50	58.65	3,672.00
Ot Hrly	7.6500	8.00	61.20	183.60

In violation of the FLSA, Defendant calculated Plaintiff’s overtime rate on the sub-minimum direct cash wage, and not on the full minimum wage. Defendant calculated the overtime rate by multiplying Plaintiff’s sub-minimum direct cash wage of \$5.10 by one and one-half, for an overtime rate of \$7.65. Assuming an applicable minimum wage of the federal minimum wage of \$7.25 per hour, Plaintiff’s proper overtime rate should have been \$10.875 per hour (\$7.25 per hour times one and one-half) if Defendant was not entitled to utilize a tip credit (Plaintiff has alleged herein that Defendant cannot claim a tip credit due to its non-compliance with the federal tip credit notice requirements), or, at the least, \$8.725 per hour (\$10.875 per hour minus a tip credit of \$2.15) if Defendant was entitled to utilize a tip credit (which Plaintiff does not concede). Either way, Plaintiff’s overtime pay was not calculated based on the proper regular rate of pay as required by the FLSA, resulting in the underpayment of overtime wages.

**ANSWER:** In response to the allegations contained in Paragraph 50 regarding Plaintiff’s July 16, 2018 paycheck, an image of which appears to be included in said paragraph, Tropicana Atlantic City states that such paycheck is a written document that speaks for itself. Thus, no admission or denial is required of Tropicana Atlantic City regarding any allegations that pertain to such document. Tropicana Atlantic City denies the remaining allegations contained in Paragraph 50 of Plaintiff’s Complaint.

51. Defendant's improper calculation of overtime pay impacted Plaintiff and all other similarly situated employees in the same manner. In doing so, Defendant failed to pay Plaintiff and all other similarly situated employees the proper overtime pay as required under federal law.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 51 of Plaintiff's Complaint.**

52. Plaintiff brings Count I, the FLSA claim arising out of Defendant's unlawful time-clock rounding policy, as an "opt in" collective action pursuant to 29 U.S.C. § 216(b) on behalf of herself and the following collective:

FLSA Time-Clock Rounding Collective

All persons employed by Defendant in an hourly position during the relevant time period.

At present, the relevant time period includes the three-year period prior to the filing of this Collection Action Complaint and extends forward to the present. The collective action class as defined herein remains subject to change or modification based on, among other things, certification-related discovery, agreement of the parties and/or Order of the Court.

**ANSWER: Paragraph 52 purports to summarize Plaintiff's claims and the putative collective class she seeks to represent, to which no admission or denial is required of Tropicana Atlantic City.**

53. Plaintiff brings Count II, the FLSA claim arising out of Defendant's failure to comply with the FLSA's tip credit notice requirement, as an "opt in" collective action pursuant to 29 U.S.C. § 216(b) on behalf of herself and the following collective:

FLSA Tip Credit Notice Collective

All persons employed by Defendant during the relevant time period and paid a direct cash wage of less than \$7.25 per hour.

At present, the relevant time period includes the three-year period prior to the filing of this Collection Action Complaint and extends forward to the present. The collective action class as defined herein remains subject to change or modification based on, among other things, certification-related discovery, agreement of the parties and/or Order of the Court.

**ANSWER: Paragraph 53 purports to summarize Plaintiff’s claims and the putative collective class she seeks to represent, to which no admission or denial is required of Tropicana Atlantic City.**

54. Plaintiff brings Count III, the FLSA claim arising out of Defendant’s regular rate calculation policy resulting in unpaid overtime wages, as an “opt in” collective action pursuant to 29 U.S.C. § 216(b) on behalf of herself and the following collective:

FLSA Miscalculated Regular Rate Collective

All persons employed by Defendant during the relevant time period and paid a direct cash wage of less than \$7.25 per hour.

At present, the relevant time period includes the three-year period prior to the filing of this Collection Action Complaint and extends forward to the present. The collective action class as defined herein remains subject to change or modification based on, among other things, certification-related discovery, agreement of the parties and/or Order of the Court.

**ANSWER: Paragraph 54 purports to summarize Plaintiff’s claims and the putative collective class she seeks to represent, to which no admission or denial is required of Tropicana Atlantic City.**

55. Plaintiff’s FLSA claims (Counts I-III) may be pursued by those who opt-in to this case, pursuant to 29 U.S.C. § 216(b).

**ANSWER: Paragraph 55 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

56. Plaintiff, individually and on behalf of all others similarly situated, seeks relief on a collective basis challenging Defendant's above-described FLSA violations. The number and identity of other plaintiffs yet to opt-in and consent to be party plaintiffs may be determined from Defendant's records, and potential opt-in plaintiffs may easily and quickly be notified of the pendency of this action and their right to participate through U.S. Mail, email, text message and posting.

**ANSWER: Paragraph 56 purports to summarize Plaintiff's claims and the putative collective class she seeks to represent, to which no admission or denial is required of Tropicana Atlantic City.**

57. At all times material herein, Plaintiff and all others similarly situated have been entitled to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. §§ 201, *et seq.*

**ANSWER: Paragraph 57 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

58. The FLSA regulates, among other things, the payment of minimum wage and overtime pay by employers whose employees are engaged in interstate commerce, or engaged in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce. 29 U.S.C. § 206(a); 29 U.S.C. § 207(a)(1).

**ANSWER: Paragraph 58 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

59. Defendant is subject to the minimum wage and overtime pay requirements of the FLSA because it is an enterprise engaged in interstate commerce and its employees are engaged in commerce. At all relevant times, Defendant is or has been an enterprise engaged in commerce

or in the production of goods or services for commerce within the meaning of 29 U.S.C. § 203(s)(1), and, upon information and belief, has had an annual gross volume of sales made or business done of not less than \$500,000.

**ANSWER: Paragraph 59 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

60. During all relevant times to this action, Defendant was the "employer" of Plaintiff and all similarly situated employees within the meaning of the FLSA. 29 U.S.C. § 203(d).

**ANSWER: Paragraph 60 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

61. During all times relevant to this action, Plaintiff and all similarly situated employees were Defendant's "employees" within the meaning of the FLSA. 29 U.S.C. § 203(e).

**ANSWER: Paragraph 61 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

62. Plaintiff and all similarly situated employees are covered, non-exempt employees within the meaning of the FLSA. Accordingly, Plaintiff and all similarly situated employees must be paid minimum wage in accordance with 29 U.S.C. § 206.

**ANSWER: Paragraph 62 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

63. Pursuant to the FLSA, employees are also entitled to be compensated at a rate of not less than one and one-half times the regular rate at which such employees are employed for all work performed in excess of 40 hours in a workweek. 29 U.S.C. § 207(a).

**ANSWER: Paragraph 63 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

64. Although the FLSA contains some exceptions (or exemptions) from the minimum wage and overtime requirements, none of those exceptions (or exemptions) applies here.

**ANSWER: Paragraph 64 of Plaintiff's Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

65. Plaintiff and all similarly situated employees are victims of uniform or substantially similar compensation policies and practices.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 65 of Plaintiff's Complaint.**

66. Plaintiff and all similarly situated employees are entitled to damages equal to the mandated minimum wage and overtime premium pay within the three (3) years preceding the filing of the Collective Action Complaint to the present date because Defendant acted willfully and knew, or showed reckless disregard of whether its conduct was prohibited by the FLSA. Under principles of equitable tolling or as otherwise warranted under applicable law, the effective date of consents to join this action by similarly situated employees should be deemed retroactive to the date of Plaintiff's filing of this Collective Action Complaint or such other date as may be determined by the Court.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 66 of Plaintiff's Complaint.**

67. Defendant has acted neither in good faith nor with reasonable grounds to believe that its actions and omissions were not a violation of the FLSA, and as a result, Plaintiff and other similarly situated employees are entitled to recover an award of liquidated damages in an amount equal to the amount of unpaid wages as described by Section 16(b) of the FLSA, codified at 29 U.S.C. § 216(b). Alternatively, should the Court find Defendant acted in good

faith or with reasonable grounds in failing to pay minimum wage and overtime compensation, Plaintiff and all similarly situated employees are entitled to an award of prejudgment interest at the applicable legal rate.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 67 of Plaintiff's Complaint.**

68. As a result of these violations of the FLSA's minimum wage and overtime pay provisions, compensation has been unlawfully withheld by Defendant from Plaintiff and all similarly situated employees. Accordingly, pursuant to 29 U.S.C. § 216(b), Defendant is liable for the unpaid minimum wages and overtime premium pay along with an additional amount as liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees, and costs of this action.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 68 of Plaintiff's Complaint.**

COUNT I – FLSA (Unpaid Overtime & Minimum Wages)  
Arising Out of Defendant's Unlawful Time-Clock Rounding Policy  
(Brought Against Defendant by Plaintiff Individually  
and on Behalf of All Others Similarly Situated)

69. Plaintiff, on behalf of herself and all others similarly situated, re-alleges and incorporates by reference the paragraphs above as if they were set forth again herein.

**ANSWER: Tropicana Atlantic City restates and incorporates herein its responses to Paragraph 1 through 68 of Plaintiff's Complaint as its response to Paragraph 69 of Plaintiff's Complaint.**

70. Defendant violated the FLSA by failing to pay Plaintiff and all other similarly situated employees for all compensable hours worked at the legal and applicable wage rates for all hours worked in a workweek.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 70 of Plaintiff's Complaint.**

71. Specifically, as discussed above, Defendant utilizes an unlawful time-clock rounding policy that, when combined with its attendance and/or disciplinary policies, forces employees to work off-the-clock without being paid at the legal and applicable wage rates for both straight and overtime hours.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 71 of Plaintiff's Complaint.**

72. Defendant's practice was to unlawfully and willfully fail to properly pay its hourly employees for all hours worked.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 72 of Plaintiff's Complaint.**

73. WHEREFORE, on Count I of this Collective Action Complaint, Plaintiff and all similarly situated employees demand judgment against Defendant and pray this Court:

- a. Issue notice to all similarly situated employees of Defendant informing them of their right to file consents to join the FLSA portion of this action;
- b. Award Plaintiff and all similarly situated employees damages for unpaid minimum wages and unpaid overtime wages under 29 U.S.C. § 216(b);
- c. Award Plaintiff and all similarly situated employees liquidated damages under 29 U.S.C. § 216(b);
- d. Award Plaintiff and all similarly situated employees pre-judgment and post-judgment interest as provided by law;

- e. Award Plaintiff and all similarly situated employees attorneys' fees and costs under 29 U.S.C. § 216(b); and
- f. Award Plaintiff and all similarly situated employees such other relief as the Court deems fair and equitable.

**ANSWER: In response to the allegations contained in Paragraph 73 of Plaintiff's Complaint, Tropicana Atlantic City denies that Plaintiff is entitled to any relief on account of the allegations contained in her Complaint, and, in particular, Tropicana Atlantic City denies that Plaintiff is entitled to the relief set out in Paragraph 73 and sub-paragraphs a through f contained therein.**

COUNT II – FLSA (Unpaid Minimum Wages)  
Arising Out of Defendant's Unlawful Tip Credit Notice Policy  
(Brought Against Defendant by Plaintiff Individually and  
on Behalf of All Others Similarly Situated)

74. Plaintiff, on behalf of herself and all others similarly situated, re-alleges and incorporates by reference the paragraphs above as if they were set forth again herein.

**ANSWER: Tropicana Atlantic City restates and incorporates herein its responses to Paragraph 1 through 73 of Plaintiff's Complaint as its response to Paragraph 74 of Plaintiff's Complaint.**

75. Defendant violated the FLSA by failing to pay Plaintiff and all others similarly situated minimum wages for all hours worked in a workweek.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 75 of Plaintiff's Complaint.**

76. Specifically, Defendant paid Plaintiff and others similarly situated below the federal minimum wage rate without complying with the "tip credit" rules required for an employer to pay a direct cash wage less than the federal minimum wage.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 76 of Plaintiff's Complaint.**

77. In particular, Plaintiff and other similarly situated tipped employees were not informed, in advance of Defendant's use of the tip credit, of: (1) the additional amount by which the wages of the tipped employee are increased on account of the tip credit claimed by Defendant, which amount may not exceed the value of the tips actually received the employee; (2) that all tips received by the tipped employee must be retained by the employee except for a valid tip pooling arrangement limited to employees who customarily and regularly receive tips; and (3) that the tip credit shall not apply to any employee who has not been informed of these requirements in this section.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 77 of Plaintiff's Complaint.**

78. Defendant failed to comply with the notification requirements set forth within the express language of the FLSA and supporting federal regulations. 29 U.S.C. § 203(m)(2); 29 C.F.R. § 531.59(b).

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 78 of Plaintiff's Complaint.**

79. As Defendant has failed to properly inform Plaintiff and other similarly situated tipped employees of the required tip credit provisions and is not entitled to claim a tip credit, Defendant has willfully violated federal law by failing and refusing to pay all minimum wages due and owing to Plaintiff and all other similarly situated employees.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 79 of Plaintiff's Complaint.**

80. Defendant's practice was to unlawfully and willfully fail to comply with the requirements for its entitlement to a tip credit and therefore, Plaintiff and the similarly situated tipped employees were not properly paid minimum wages pursuant to the FLSA.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 80 of Plaintiff's Complaint.**

81. WHEREFORE, on Count II of this Collective Action Complaint, Plaintiff and all similarly situated employees demand judgment against Defendant and pray this Court:

- a. Issue notice to all similarly situated employees of Defendant informing them of their right to file consents to join the FLSA portion of this action;
- b. Award Plaintiff and all similarly situated employees damages for unpaid minimum wages under 29 U.S.C. § 216(b);
- c. Award Plaintiff and all similarly situated employees liquidated damages under 29 U.S.C. § 216(b);
- d. Award Plaintiff and all similarly situated employees pre-judgment and post-judgment interest as provided by law;
- e. Award Plaintiff and all similarly situated employees attorneys' fees and costs under 29 U.S.C. § 216(b); and
- f. Award Plaintiff and all similarly situated employees such other relief as the Court deems fair and equitable.

**ANSWER: In response to the allegations contained in Paragraph 81, Tropicana Atlantic City denies that Plaintiff is entitled to any relief on account of the allegations contained in her Complaint, and, in particular, Tropicana Atlantic City denies that**

**Plaintiff is entitled to the relief set out in Paragraph 81 and sub-paragraphs a through f contained therein.**

COUNT III – FLSA (Unpaid Overtime)

Arising Out of Defendant’s Miscalculated Regular Rate Calculation Policy  
(Brought Against Defendant by Plaintiff Individually and  
on Behalf of All Others Similarly Situated)

82. Plaintiff, on behalf of herself and all others similarly situated, re-alleges and incorporates by reference the paragraphs above as if they were set forth again herein.

**ANSWER: Tropicana Atlantic City restates and incorporates herein its responses to Paragraph 1 through 81 of Plaintiff’s Complaint as its response to Paragraph 82 of Plaintiff’s Complaint.**

83. Defendant violated the FLSA by failing to pay Plaintiff and all other similarly situated employees for all overtime hours worked at one and one-half times the regular rate for all hours worked in excess of forty hours in a workweek.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 83 of Plaintiff’s Complaint.**

84. Specifically, the FLSA requires that employees are paid one and one-half times their “regular rate” of pay. The “regular hourly rate of pay of an employee is determined by dividing his total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by him in that workweek for which such compensation was paid.” 29 C.F.R. § 778.109.

**ANSWER: Paragraph 84 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

85. Federal regulations provide that “a tipped employee’s regular rate of pay includes the amount of tip credit taken by the employer ... Any tips received by the employee in excess of the tip credit need not be included in the regular rate.” 29 C.F.R. § 531.60.

**ANSWER: Paragraph 85 of Plaintiff’s Complaint contains conclusions of law to which no admission or denial is required of Tropicana Atlantic City.**

86. In calculating Plaintiff’s and other similarly situated employees’ overtime pay, Defendant first subtracted the tip credit from the applicable minimum wage. In other words, Defendant calculated the overtime rate by multiplying one and one-half times the lower direct cash wage being earned. As a result, Plaintiff’s and other similarly situated employees’ overtime pay was not based on the proper regular rate of pay under the FLSA.

**ANSWER: Tropicana Atlantic City denies the allegations contained in Paragraph 86 of Plaintiff’s Complaint.**

87. WHEREFORE, on Count III of this Collective Action Complaint, Plaintiff and all similarly situated employees demand judgment against Defendant and pray this Court:

- a. Issue notice to all similarly situated employees of Defendant informing them of their right to file consents to join the FLSA portion of this action;
- b. Award Plaintiff and all similarly situated employees damages for unpaid overtime wages under 29 U.S.C. § 216(b);
- c. Award Plaintiff and all similarly situated employees liquidated damages under 29 U.S.C. § 216(b);
- d. Award Plaintiff and all similarly situated employees pre-judgment and post-judgment interest as provided by law;

- e. Award Plaintiff and all similarly situated employees attorneys' fees and costs under 29 U.S.C. § 216(b); and
- f. Award Plaintiff and all similarly situated employees such other relief as the Court deems fair and equitable.

**ANSWER:** In response to the allegations contained in Paragraph 87, Tropicana Atlantic City denies that Plaintiff is entitled to any relief on account of the allegations contained in her Complaint, and, in particular, Tropicana Atlantic City denies that Plaintiff is entitled to the relief set out in Paragraph 87 and sub-paragraphs a through f contained therein.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

1. Tropicana Atlantic City asserts that Plaintiff's Complaint fails to state a cause of action upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

2. Tropicana Atlantic City asserts, on information and belief, that Plaintiff has failed and neglected to use reasonable means to protect herself from loss and to mitigate the alleged losses and damages complained of in her Complaint.

**THIRD AFFIRMATIVE DEFENSE**

3. Tropicana Atlantic City asserts that certain of Plaintiff's claims are barred by the equitable doctrines of estoppel, waiver, laches, and accord and satisfaction.

**FOURTH AFFIRMATIVE DEFENSE**

4. Tropicana Atlantic City states that Plaintiff's claims are barred, in whole or in part, by exemptions, exclusions, setoffs, and credits provided in Sections 7 and 13 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 207 and 213.

**FIFTH AFFIRMATIVE DEFENSE**

5. Tropicana Atlantic City states that Plaintiff's claims are barred by the provisions of Section 4 of the Portal-to-Portal Act, 29 U.S.C. § 254 as to all hours during which Plaintiff was engaged in activities which were preliminary or postliminary to her principal activities.

**SIXTH AFFIRMATIVE DEFENSE**

6. Tropicana Atlantic City asserts that the Complaint, and each purported cause of action alleged therein, is barred on the grounds that Plaintiff has not suffered any damages or injury as a result of the facts alleged in the Complaint.

**SEVENTH AFFIRMATIVE DEFENSE**

7. Tropicana Atlantic City asserts that Plaintiff's claims are barred because Tropicana Atlantic City did not willfully, intentionally, arbitrarily, or without just cause deprive Plaintiff of any wages to which she allegedly was entitled under federal law.

**EIGHTH AFFIRMATIVE DEFENSE**

8. Tropicana Atlantic City states that it did not willfully violate the Fair Labor Standards Act and the relief sought by Plaintiff is therefore barred in whole or in part by the applicable two-year statute of limitations of 29 U.S.C. § 255(a). Even if Tropicana Atlantic City is found to have willfully violated the Fair Labor Standards Act, the relief sought by Plaintiff would still be barred in whole or in part by the then-applicable three-year statute of limitations of 29 U.S.C. § 255(a).

**NINTH AFFIRMATIVE DEFENSE**

9. Tropicana Atlantic City asserts that it has no knowledge of, nor should it have knowledge of, any alleged unpaid work (regular time or overtime) by Plaintiff, and did not authorize, require, request, suffer, or permit such activity by Plaintiff.

**TENTH AFFIRMATIVE DEFENSE**

10. Tropicana Atlantic City asserts that the Complaint, and each purported cause of action alleged therein, is barred to the extent the hours for which Plaintiff seeks compensation do not constitute legally compensable working time.

**ELEVENTH AFFIRMATIVE DEFENSE**

11. Tropicana Atlantic City states that the claims of Plaintiff and the putative class are barred because the time periods for which they are claiming entitlement to unpaid time are *de minimus*.

**TWELFTH AFFIRMATIVE DEFENSE**

12. Tropicana Atlantic City states that the claims of Plaintiff and the putative class are barred, in whole or in part, as they are preempted by the Labor Management Relations Act or other applicable federal or state law.

**THIRTEENTH AFFIRMATIVE DEFENSE**

13. Tropicana Atlantic City states that the claims of Plaintiff and the putative class are barred, in whole or in part, because Plaintiff and the putative class failed to exhaust any requisite internal remedies pursuant to the then-applicable Collective Bargaining Agreement before pursuing the claims asserted in this case.

**FOURTEENTH AFFIRMATIVE DEFENSE**

14. Tropicana Atlantic City asserts that the Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a claim against Tropicana Atlantic City for penalties or liquidated damages in any amount whatsoever.

**FIFTEENTH AFFIRMATIVE DEFENSE**

15. Plaintiff is not entitled to recovery of attorneys' fees or costs from Tropicana Atlantic City.

**SIXTEENTH AFFIRMATIVE DEFENSE**

16. Tropicana Atlantic City asserts that Plaintiff is not entitled to recover prejudgment interest because her alleged damages are not certain or capable of being made certain by any calculation.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

17. Tropicana Atlantic City asserts that the Complaint, and each purported cause of action alleged therein, is barred because Tropicana Atlantic City has fully performed any and all contractual, statutory, and other duties (if any) owed to Plaintiff under applicable law.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

18. Tropicana Atlantic City states that Plaintiff's Complaint and the causes of action contained therein are barred, in whole or in part, on the basis that Plaintiff would be unjustly enriched if allowed to recover certain claimed damages in the Complaint.

**NINETEENTH AFFIRMATIVE DEFENSE**

19. Tropicana Atlantic City states that Plaintiff's claims are barred in whole or in part because Tropicana Atlantic City has substantially complied with any and all applicable statutes, regulations, and/or laws.

**TWENTIETH AFFIRMATIVE DEFENSE**

20. Tropicana Atlantic City states that it acted at all times in good faith and had reasonable grounds to believe that its actions did not violate the Fair Labor Standards Act. Accordingly, pursuant to 29 U.S.C. § 260, liquidated damages should be denied.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

21. Tropicana Atlantic City states that neither Plaintiff, nor the opt-in class she purportedly seeks to represent, are “similarly situated” within the meaning of the Fair Labor Standards Act. *See* 29 U.S.C. § 216(b). Thus, this case cannot and should not be certified as a collective action because there is no commonality of questions of law or fact, there is no typicality of claims or defenses, and Plaintiff does not fairly and adequately protect the interests of the class.

WHEREFORE, having fully answered Plaintiff’s Complaint, Defendant Tropicana Atlantic City Corporation d/b/a Tropicana Casino Resort denies that Plaintiff is entitled to any relief as a result of the allegations set forth in her Complaint, and prays for judgment as follows:

- a. That the Court deny any request for conditional class certification;
- b. That Plaintiff take nothing by virtue of the Complaint and that judgment be entered in favor of Tropicana Atlantic City;
- c. That the Complaint and each purported cause of action therein be dismissed with prejudice;
- d. That Tropicana Atlantic City be awarded its costs of suit and attorneys’ fees incurred in defense of this action; and
- e. That Tropicana Atlantic City be awarded such other and further relief as the Court deems just and proper.

Dated: July 14, 2020

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on July 14, 2020, a true and correct copy of the foregoing was electronically filed using the Court's CM/EMF system, and was thereby served through the Court's CM/ECF system upon the following registered users in this case:

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