

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

CRYSTALLE BROWN,	:	
Plaintiff,	:	Civil Action No.
	:	1:19-CV-01227-JEJ
	:	
v.	:	
	:	
LYNDON DINER WEST, INC.	:	
	:	
Defendant	:	

**ANSWER AND AFFIRMATIVE DEFENSES OF
DEFENDANT, LYNDON CITY LINE DINER, INC.**

Defendant, Lyndon City Line Diner, Inc. (“Lyndon Diner”) by its attorneys, responds to the Complaint filed by Plaintiff, Crystalle Brown (“Plaintiff”) according to the number of paragraphs therein, as follows:¹

JURISDICTION AND VENUE

1. The allegations in paragraph 1 state conclusions of law to which no response is required.
2. The allegations in paragraph 2 state conclusions of law to which no response is required.
3. The allegations in paragraph 3 state conclusions of law to which no response is required.

PARTIES

4. Lyndon Diner lacks sufficient knowledge or information to form a belief as to the location of Plaintiff's residence, and, therefore, the allegation is denied.
5. The allegations in paragraph 5 state conclusions of law to which no response is required.
6. Admitted.

¹ Plaintiff incorrectly identified Defendant as Lyndon Diner West, Inc. In its Disclosure Statement, Defendant provided the correct name of the entity.

FACTS

7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Denied as stated. To the extent the allegations of paragraph 11 constitute conclusions of law to which no response is required, they are denied.
12. Denied.
13. Admitted.
14. Admitted in part and denied in part. It is denied that Expos do not interact with restaurant customers. The allegation that Expos do not receive tips directly from customers is a conclusion to law to which no response is required. Therefore, it is denied. It is admitted that part of an Expo's work is readying food orders for pick-up. The allegation of "other kitchen related work" is too vague to warrant a substantive response and is, therefore, denied.
15. Admitted in part and denied in part. It is denied that Defendant required Plaintiff or other servers to contribute tips to Managers. The remaining allegations are admitted.
16. Admitted in part and denied in part. It is admitted that Plaintiff was required to perform non-tip producing work. The remaining allegations are denied.

COLLECTIVE AND CLASS ALLEGATIONS

17. Admitted in part and denied in part. Lyndon Diner admits that Plaintiff purports to bring her lawsuit on behalf of herself and all individuals who in the past three years were

employed as servers at Lyndon Diner West. Lyndon Diner denies that it is liable to Plaintiff.

18. The allegations of paragraph 18 constitute conclusions of law to which no response is required. To the extent a response is deemed required, the allegations are denied.
19. The allegations of paragraph 19 constitute conclusions of law to which no response is required. To the extent a response is deemed required, the allegations are denied.
20. The allegations of paragraph 20 constitute conclusions of law to which no response is required. To the extent a response is deemed required, they are denied.
21. The allegations of paragraph 21 constitute conclusions of law to which no response is required. To the extent a response is deemed required, they are denied.
22. The allegations of paragraph 22 constitute conclusions of law to which no response is required. To the extent a response is deemed required, they are denied.
23. The allegations of paragraph 23 constitute conclusions of law to which no response is required. To the extent a response is deemed required, they are denied.
24. The allegations of paragraph 24 constitute conclusions of law to which no response is required. To the extent a response is deemed required, they are denied.

COUNT I (Alleging Violations Of The FLSA)

25. Lyndon Diner repeats and re-alleges its responses to the foregoing paragraphs of the Complaint as if set forth at length herein.
26. The allegations in paragraph 26 constitute conclusions of law to which no response is required.
27. The allegations in paragraph 27 constitute conclusions of law to which no response is required.

28. The allegations in paragraph 28 constitute conclusions of law to which no response is required.

COUNT II (Alleging Violations Of The PMWA)

29. Lyndon Diner repeats and re-alleges its responses to the foregoing paragraphs of the Complaint as if set forth at length herein.

30. The allegations in paragraph 30 constitute conclusions of law to which no response is required.

31. The allegations in paragraph 31 constitute conclusions of law to which no response is required.

32. The allegations in paragraph 32 constitute conclusions of law to which no response is required.

RESPONSE TO JURY DEMAND

Defendant disputes that Plaintiffs are entitled to jury trial regarding whether Defendant willfully violated the FLSA.

RESPONSE TO PLAINTIFF'S PRAYER FOR RELIEF

In response to Plaintiff's "Wherefore" clause, Defendant incorporates its responses from paragraphs 1 – 32 above as if set forth fully herein. Defendant specifically denies that it is liable to Plaintiff under any law or legal theory or that Plaintiff is entitled to relief sought.

AFFIRMATIVE AND OTHER DEFENSES

In further answer to the Complaint, Lyndon Diner sets forth the following affirmative and other defenses:

FIRST DEFENSE

The Complaint should be dismissed, in whole or in part, for failure to state a claim upon which relief can be granted.

SECOND DEFENSE

Lyndon Diner acted at all times in good faith and attempted to comply with its obligations under the FLSA. Accordingly, liquidated damages are not available or warranted under the provisions of the FLSA.

THIRD DEFENSE

Defendant's claims are or may be barred in whole, or in part, by the FLSA statutes of limitations.

FOURTH DEFENSE

Without assuming the burden of proof, any violation of the FLSA by Lyndon Diner (which is denied) was not willful, and therefore all claims are limited to a two-year limitations period calculated from the date Plaintiff filed suit.

FIFTH DEFENSE

Some of the activities for which Plaintiff seeks compensation were not "work" within the meaning of the FLSA. The activities were not integral and indispensable to the principal activities of Lyndon Diner and/or were taken for Plaintiff's own convenience.

SIXTH DEFENSE

Plaintiff's claims are or may be barred in whole, or in part, by the Pennsylvania Minimum Wage Act statute of limitations.

SEVENTH DEFENSE

Plaintiff's claimed damages would constitute a windfall, as the measure of damages Plaintiff proposes far exceeds the amount of money Plaintiff and putative class members paid to Expos part of the challenged tipping procedure.

EIGHTH DEFENSE

Plaintiff and any proposed putative class members have not sustained any damage by reason of any act or omission of Defendant.

NINTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of estoppel, offset, set off, unclean hands, accord and satisfaction, and laches.

TENTH DEFENSE

Plaintiff's allegations are barred in whole or in part because her claims are not representative of the proposed class.

ELEVENTH DEFENSE

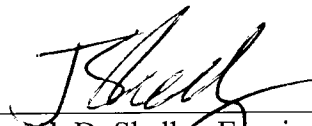
Plaintiff's claims are barred in whole or in part because Expos do interact with customers.

TWELTH DEFENSE

Defendant reserves the right to add any additional defenses as they become known through discovery or further investigation.

Respectfully submitted,

CIPRIANI & WERNER, P.C.



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Date: September 4, 2019

CERTIFICATE OF SERVICE

I certify that on this 4 day of September, 2019, I served a copy of the foregoing document upon the person(s) and in the manner indicated below:

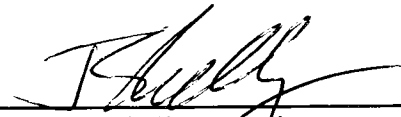
By Court's ECF Notification and First Class Mail as follows:

Peter Winebrake, Esquire
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Attorney for Plaintiff

CIPRIANI & WERNER, P.C.

Dated: September 4, 2019

By:



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