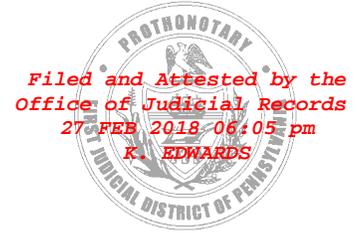


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MOUSSA DEMBELE and BOUBACAR SAKHO,
on behalf of themselves and others similarly situated,

Plaintiffs,

v.

PARC RESTAURANT PARTNERS, L.P.,

Defendants.

PHILADELPHIA COUNTY
COURT OF COMMON
PLEAS

Case No. 171200223

Hon. Nina Wright-Padilla

FIRST AMENDED CLASS ACTION COMPLAINT
10 — Contract: Other

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
Lawyer Referral and Information Service
1101 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107
(215) 238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notification. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defenses o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notification. Ademas, la corte puede decidira favor del demandante y require que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATA-MENTE SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE
FILADELFIA
Servicio De Referencia E Informacion Legal
1101 Market Street, 11th Floor
Filadelfia, Pennsylvania 19107
(215) 238-1701

Moussa Dembele and Boubacar Sakho bring this class action lawsuit against Parc Restaurant Partners, L.P., seeking all available relief under the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, *et seq.*

JURISDICTION AND VENUE

1. This Court has jurisdiction over Defendant and this lawsuit.
2. Venue is proper under Pennsylvania Rule of Civil Procedure 2179.

PARTIES

3. Moussa Dembele (“Dembele”) resides at 5306 Spruce Street, Philadelphia, PA 19139.
4. Boubacar Sakho (“Sakho”) resides at 4431 Baltimore Avenue, Philadelphia, PA 19104.
5. Dembele and Sakho are referred to collectively as “Plaintiffs.”
6. Parc Restaurant Partners, L.P. (“Defendant”) is a corporate entity headquartered at 134 Market Street, Philadelphia, PA 19106.

FACTS

7. Defendant owns and operates the Parc Restaurant (“Parc”) on Rittenhouse Square.
8. During the three-year period relevant to this lawsuit, Defendant, upon information and belief, has employed at least 35 individuals at Parc in the position of food runner.
9. Plaintiffs were employed by Defendant at Parc as food runners. In particular, Dembele worked as a food runner until approximately October 2017, while Sakho worked as a food runner until approximately January 2018.

10. Defendant has required Plaintiffs and other Parc food runners to spend a substantial portion of their working hours performing non-tipped work consisting of, among other things: traying food orders in the kitchen area; preparing and packaging food orders for take-out customers (including take-out customers ordering through Grubhub.com and similar internet platforms) in the kitchen area; cleaning in the kitchen area; restocking plates; polishing silverware; preparing frites cones; and preparing condiment ramekins. In fact, during days in which take-out orders are especially high, Plaintiffs and other food runners could spend the majority of their time performing such non-tipped work.

11. The non-tipped work described in paragraph 14 did not entail any customer contact or interaction.

12. Defendant paid Plaintiffs and other food runners an hourly wage of \$4.50 plus tips. This \$4.50 hourly wage is paid for *all* work time, including time dedicated to the non-tipped work described in paragraph 14.

CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this lawsuit as a class action on behalf of themselves and all individuals who, during any time since December 4, 2014, worked at Parc as food runners.

14. This action is properly maintained as a class action pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, and 1709.

15. The class is so numerous that joinder of all individual members is impracticable.

16. Defendant's conduct with respect to Plaintiffs and the class raises

questions of law and fact that are common to the class.

17. Plaintiffs claims and Defendant's anticipated defenses are typical of the claims or defenses applicable to the class.

18. Plaintiffs' interests in pursuing this lawsuit are aligned with the interests of the class.

19. Plaintiffs will fairly and adequately protect class members' interests because they and their experienced and well-financed counsel are free of any conflicts of interest and are prepared to vigorously litigate this action on behalf of the class.

20. A class action provides the fairest and most efficient method for adjudicating the class members' legal claims.

COUNT I

21. All previous paragraphs are incorporated as though fully set forth herein.

22. Plaintiffs and the class members are employees entitled to the PMWA's protections.

23. Defendant is an employer covered by the PMWA.

24. The PMWA entitles employees to a minimum wage of \$7.25/hour for hours worked under 40 in a week, *see* 43 P. S. § 333.104(a.1); 34 Pa. Code § 231.21, and \$10.875/hour for hours worked over 40 per week, *see* 43 P.S. § 333.104(c).

25. Restaurants may use a tip credit to satisfy their minimum wage obligations to an employee. *See* 43. P.S. § 333.103(d). However, under the PMWA, "[w]hen employees perform both tipped and non-tipped work, employers must pay the full minimum wage for all hours that their employees spend performing non-tipped tasks." *Zellaugi v. MCD Pizza, Inc.*, 59 F. Supp. 3d 712, 715 (E.D. Pa. 2014).

26. Defendant violated the PMWA by failing to pay Plaintiffs and other food runners (i) \$7.25/hour for the time they spent performing non-tipped work and (ii) \$10.875/hour for any non-tipped work qualifying for overtime premium pay.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of himself and other members of the class, seeks the following relief:

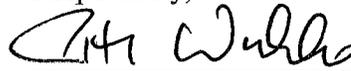
- A. all unpaid minimum and overtime wages;
- B. reasonable attorney's fees, expenses, and court costs;
- C. prejudgment and post-judgment interest; and
- D. such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a jury trial as to all claims so triable.

Date: February 26, 2018

Respectfully,



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