

Court of Common Pleas of Philadelphia County  
Trial Division

**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)	
<b>DECEMBER 2017</b>	<b>000223</b>
E-Filing Number: 1712007492	

PLAINTIFF'S NAME MOUSSA DEMBELE	DEFENDANT'S NAME STARR RESTAURANT ORGANIZATION, L.P.
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PLAINTIFF'S ADDRESS 5306 SPRUCE STREET PHILADELPHIA PA 19139	DEFENDANT'S ADDRESS 134 MARKET STREET PHILADELPHIA PA 19106
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PLAINTIFF'S NAME	DEFENDANT'S NAME
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PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS
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PLAINTIFF'S NAME	DEFENDANT'S NAME
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PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS
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TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 1	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions
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AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input checked="" type="checkbox"/> Other: CLASS ACTION
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CASE TYPE AND CODE C1 - CLASS ACTION
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STATUTORY BASIS FOR CAUSE OF ACTION
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RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)	<p style="text-align: center;"><b>FILED PRO PROTHY DEC 04 2017 M. BRYANT</b></p>	IS CASE SUBJECT TO COORDINATION ORDER? YES    NO
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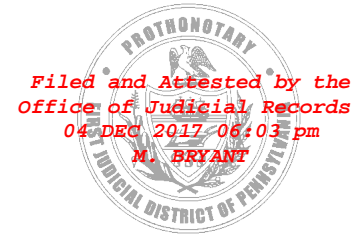
**TO THE PROTHONOTARY:**  
Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: MOUSSA DEMBELE  
Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY PETER D. WINEBRAKE	ADDRESS WINEBRAKE & SANTILLO, LLC 715 TWINING ROAD, SUITE 211 DRESHER PA 19025
PHONE NUMBER (215) 884-2491	FAX NUMBER (215) 884-2492

SUPREME COURT IDENTIFICATION NO. 80496	E-MAIL ADDRESS pwinebrake@winebrakelaw.com
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SIGNATURE OF FILING ATTORNEY OR PARTY <i>PETER WINEBRAKE</i>	DATE SUBMITTED Monday, December 04, 2017, 06:03 pm
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Peter Winebrake (PA Attorney No. 80496)  
 R. Andrew Santillo (PA Attorney No. 93041)  
 Mark J. Gottesfeld (PA Attorney No. 307752)  
 Winebrake & Santillo, LLC  
 715 Twining Road, Suite 211  
 Dresher, PA 19025



*Attorneys for Plaintiff and the Putative Class*

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MOUSSA DEMBELE, on behalf of himself  
 and others similarly situated,

Plaintiff,

v.

STARR RESTAURANT ORGANIZATION,  
 L.P.,

Defendant.

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:  
 : PHILADELPHIA COUNTY  
 : COURT OF COMMON PLEAS  
 :  
 : CLASS ACTION  
 :  
 : JURY TRIAL DEMANDED  
 :  
 :  
 :  
 :

**COMPLAINT -- CLASS ACTION**  
**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  
 FILADELFA  
 Servicio De Referencia E Informacion Legal  
 1101 Market Street, 11th Floor  
 Filadelfia, Pennsylvania 19107  
 (215) 238-1701

Plaintiff Moussa Dembele (“Plaintiff”) brings this class action lawsuit against Defendant Starr Restaurant Organization, L.P. (“Defendant”), 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. Plaintiff resides in Philadelphia, PA.
4. Defendant is headquartered in Philadelphia, PA.

### **FACTS**

5. Defendant owns and operates the Parc Restaurant (“Parc”) on Rittenhouse Square.

6. 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.

7. Plaintiff was employed by Defendant at Parc as a food runner until approximately October 2017.

8. Defendant has required Plaintiff 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.

9. Defendant pays Plaintiff and other food runners an hourly wage of \$4.50 plus tips. This \$4.50 hourly wage is paid for *all* work hours, including those hours dedicated to the non-tipped work summarized in paragraph 8 above.

### **CLASS ACTION ALLEGATIONS**

10. Plaintiff brings this lawsuit as a class action on behalf of himself and all individuals who, during any time since December 4, 2014, worked at Parc as food runners.

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

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

13. Defendant's conduct with respect to Plaintiff and the class raises questions of law and fact that are common to the class.

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

15. Plaintiff's interests in pursuing this lawsuit are aligned with the interests of the class.

16. Plaintiff will fairly and adequately protect class members' interests because he and his 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.

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

## COUNT I

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

19. Plaintiff and the class members are employees entitled to the PMWA's protections.

20. Defendant is an employer covered by the PMWA.

21. 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 in a week, *see* 43 P.S. § 333.104(c).

22. 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).

23. Defendant violated the PMWA by failing to pay Plaintiff and other servers (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**, Plaintiff, 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**

Plaintiff demands a jury trial as to all claims so triable.

Date: December 4, 2017

Respectfully

A handwritten signature in black ink, appearing to read "Peter Winebrake", written over a horizontal line.

Peter Winebrake  
R. Andrew Santillo  
Mark J. Gottesfeld  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491  
pwinebrake@winebrakelaw.com

*Attorneys for Plaintiff and the Putative Class*

VERIFICATION

I, Moussa Jembale, hereby state:

1. I am a plaintiff in this action;
2. I verify that the statements made in the accompanying complaint are true and correct to the best of my knowledge information and belief; and
3. I understand that the statements in the complaint are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 12/04/17

Moussa Jembale  
Signature

MOUSSA JEMBELE  
Print Name