

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO.: 6:10-cv-1046-ORL-35-GJK

JUANITA HEILEMAN,
on her own behalf and others
similarly situated,

Plaintiff,

v.

FLORIDA DOUGHNUT COMPANY, a Florida
corporation, d/b/a KRISPY KREME

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff, JUANITA HEILEMAN, (hereinafter referred to as "Plaintiff"), was an employee of Defendant, FLORIDA DOUGHNUT COMPANY, a Florida corporation, d/b/a KRISPY KREME, and brings this action on behalf of herself and other current and former similarly situated employees for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) ("FLSA"). Defendant does business through multiple locations in the state of Florida. This action is intended to encompass all such locations.

2. Plaintiff, was an employee of Defendant, and performed her duties as a delivery driver with Defendant in Daytona Beach, Florida, which is within the jurisdiction of this Court.

3. Defendant, FLORIDA DOUGHNUT COMPANY, a Florida corporation, d/b/a KRISPY KREME, is a Florida corporation with its principal place of business in Daytona Beach, Florida.

4. This action is brought to recover from Defendant overtime compensation, liquidated damages, and the costs and reasonable attorney's fees under the provisions of Title 29 U.S.C. § 216 (b).

5. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1337 and by 29 U.S.C. § 216(b). At all times pertinent to this Complaint, Defendant was an enterprise engaged in commerce or in the production of goods for commerce as defined in § 3(r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s), and had an annual gross sales volume in excess of \$500,000.00.

6. Venue is proper pursuant to 28 U.S.C. §1391. The Court has jurisdiction over the Defendant, and in regard to Plaintiff and any other plaintiffs joining this lawsuit.

7. During Plaintiff's employment, she was titled a delivery driver and was misclassified as exempt from the overtime provisions of the FLSA.

8. Plaintiff's primary duties were of a non-exempt nature, and primarily included delivering Defendant's products to Defendant's customers.

9. In the course of employment with Defendant, Plaintiff and other similarly situated employees were not paid time and one-half of their regular rate of pay for all hours worked in excess of forty (40) hours per week during one or more work weeks.

10. Instead, Defendant only paid Plaintiff and the similarly situated employees their salaries, with no additional compensation for overtime hours worked.

11. The additional persons who may become Plaintiffs in this action are current and former delivery drivers of Defendant, however titled, who worked overtime hours for Defendant on or after July 2007, but were not compensated for those overtime hours worked because Defendant misclassified them as exempt from the overtime provisions of the FLSA.

12. At all times pertinent to this Complaint, Defendant failed to comply with 29 U.S.C. § 201-209, in that Plaintiff and other similarly situated employees performed services for Defendant for which no provisions were made by the Defendant to properly pay for those hours worked in excess of forty (40) within a work week.

13. The records, if any, concerning the number of hours actually worked, and the compensation actually paid to Plaintiff and other similarly situated employees are in the possession and custody of Defendant.

14. Plaintiff has retained the undersigned counsel to represent him in this action. Pursuant to 29 U.S.C. §216(b), Plaintiff is entitled to recover all reasonable attorney's fees and costs incurred in this action.

15. Plaintiff demands a jury trial.

COUNT I
RECOVERY OF OVERTIME COMPENSATION

16. Plaintiff readopts and realleges the allegations contained in paragraphs 1 through 15 above.

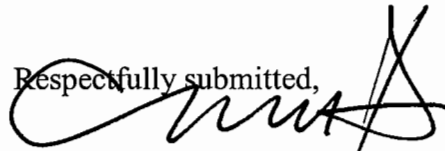
17. Plaintiff and all the other similarly situated employees are entitled to be paid time and one-half of their regular rate of pay for each hour worked in excess of forty (40) hours per work week.

18. By reason of the said intentional, willful and unlawful acts of Defendant, Plaintiff and all the other similarly situated employees have suffered damages, plus incurred costs and reasonable attorney's fees.

19. As a result of Defendant's willful violation of the Act, Plaintiff and the other similarly situated employees are entitled to liquidated damages.

WHEREFORE, Plaintiff, JUANITA HEILEMAN, and other similarly situated employees, demand judgment against Defendant, FLORIDA DOUGHNUT COMPANY, for the payment of all overtime hours at one and one-half times their regular rate of pay, liquidated damages and reasonable attorney's fees and costs of suit, and such further relief that this Court deems just and appropriate.

Dated: July 9, 2010
Boca Raton, Florida

Respectfully submitted,


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