

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

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Pamela Rodkey and Cherie Cummings, on behalf of themselves and all other similarly situated employees nationwide, and on behalf of the Ohio and Oregon Classes,

Plaintiffs,

v.

1-800 Flowers.com, Inc.  
1-800 Flowers Team Services, Inc.  
Harry and David, LLC,

Defendants.

Court File No.:

**COLLECTIVE AND CLASS ACTION  
COMPLAINT**

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Named and Representative Plaintiffs Pamela Rodkey and Cherie Cummings bring this action (a) as an opt-in collective action on behalf of themselves and all similarly situated individuals for violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, and (b) as an opt-out Rule 23 class action on behalf of all similarly situated individuals in the State of Ohio for violations of the Ohio Minimum Fair Wage Standards Act, and all similarly situated individuals in the State of Oregon for violations of the Oregon state law. Plaintiff Cummings also brings an individual claim for Defendants’ violation of the FLSA from June 17, 2013 to October 18, 2015, when she was misclassified as exempt and ineligible for overtime pay.

**PRELIMINARY STATEMENT**

1. This case is about Defendants 1-800 Flowers.com, Inc.’s, and 1-800 Flowers Team Services, Inc.’s (collectively “1-800 Flowers”) failure to pay proper overtime wages to Plaintiffs, and the putative FLSA Collective and the Rule 23 Classes defined below. Plaintiffs Pamela Rodkey (“Plaintiff Rodkey” or “Ohio Class Representative”) and Cherie Cummings

(“Plaintiff Cummings” or “Oregon Class Representative”) and other similarly situated workers are or were employed by 1-800 Flowers as non-exempt employees who were paid overtime compensation and incentive pay, commissions, and/or other bonuses.

2. This case also involves Plaintiff Cummings’ individual claim that Defendant Harry and David, LLC (“Harry and David”) misclassified her as exempt and ineligible for overtime pay during the time period between June 17, 2013, and October 18, 2015 (the “Misclassification Period”), and that Defendant 1-800 Flowers continued to misclassify her for a period of time after succeeding Harry and David as Plaintiff Cummings’ employer. Collectively, Defendants Harry and David and 1-800 Flowers shall be referred to herein as “Defendants.”

3. During the statutory period applicable to the FLSA Collective and Rule 23 Classes, Plaintiffs and those similarly situated worked more than forty (40) hours per workweek without receiving proper overtime pay for all of their overtime hours worked as a result of Defendants’ failure to include incentive pay, commissions, and/or other bonuses in calculating their regular rate of pay.

### **JURISDICTION AND VENUE**

4. This Court has original jurisdiction under 28 U.S.C. § 1331 to hear this Complaint and to adjudicate these claims because this action is brought under the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”). This Court has supplemental jurisdiction over Plaintiffs’ state law claims pursuant to 28 U.S.C. § 1367.

5. Venue in this district is proper under 28 U.S.C. § 1391 because Defendants employ individuals in this district and because a substantial part of the events giving rise to these claims occurred in this district.

**PARTIES**

6. Plaintiff Pamela Rodkey is an adult resident of the State of Ohio. Defendants employed Rodkey as a customer service specialist in Ohio from approximately August 2009 to October 31, 2014.

7. Plaintiff Cherie Cummings is an adult resident of the State of Oregon. Defendants employed Plaintiff Cummings from July 9, 2012, to March 26, 2016 in Medford, Oregon.

8. On June 17, 2013, Plaintiff Cummings began working as an inside sales representative in Defendants' Medford, Oregon location. She worked in this position until March 26, 2016.

9. Defendant 1-800 Flowers.com, Inc. is a Delaware corporation with its principal place of business located at 1 Old County Road, Suite 500, Carle Place, New York 11514.

10. Defendant 1-800 Flowers Team Services, Inc. is an operating subsidiary of Defendant 1-800 Flowers.com, Inc., and maintains its principal office at the same physical location as Defendant 1-800 Flowers.com, Inc., in Carle Place, New York.

11. According to its 2015 Annual Report, Defendant 1-800 Flowers.com, Inc. is "the leading provder of gourmet and floral gifts for all ocssions."

12. Defendant 1-800 Flowers.com, Inc. employs over 4,000 individuals throughout the United States, and operates under the following brands: 1-800 Flowers.com, Harry & David, Cheryl's, The Popcorn Factory, Fannie May, 1-800 Baskets.com, Wolferman's, Fruit Bouquets by 1-800 Flowers.com, Stock Yards, and BloomNet.

13. Defendant Harry and David, LLC is an Oregon limited liability company with its principal place of business in Medford, Oregon. Harry and David, LLC is a subsidiary of Harry & David Holdings, Inc.

14. On or around September 30, 2014, Defendant 1-800 Flowers acquired Harry & David Holdings, Inc. and its subsidiaries, and since that time Harry and David, LLC has been owned and operated by Defendant 1-800 Flowers.

15. The September 2014 acquisition included Harry & David's brands and websites, its headquarters, manufacturing and distribution facilities and orchards in Medford, Oregon, a warehouse and distribution facility in Hebron, Ohio and 48 Harry & David retail stores located throughout the country.

16. Defendants operate in interstate commerce by, among other things, offering its products and services in multiple states across the country, including Ohio and Oregon.

17. Defendants' gross annual sales made or business done have been in excess of \$500,000.00 at all relevant times.

18. Defendants are "employers," within the meaning of the FLSA, 29 U.S.C. § 203(d), Ohio Minimum Fair Wage Standards Act, Ohio Rev. Code Ann. § 4111.03 (D)(2), and Oregon Revised Statutes Chapter 653.010(3).

**FACTUAL ALLEGATIONS COMMON TO THE FLSA COLLECTIVE'S AND RULE 23 CLASSES' CLAIMS**

19. Plaintiffs, the FLSA Collective, and the Ohio and Oregon Classes identified below are current or former employees of Defendants, within the meaning of the FLSA, 29 U.S.C. § 203(e)(1), Ohio Rev. Code Ann. § 4111.03(D)(3) and Oregon Revised Statutes Chapter 653.010(2).

20. During the statutory period relevant to the FLSA Collective and Rule 23 Classes, Defendants compensated Plaintiffs, the FLSA Collective, and members of the Ohio and Oregon Classes on an hourly basis and classified them as non-exempt from overtime pay.

21. Defendants also paid Plaintiffs, the FLSA Collective, and members of the Ohio and Oregon Classes non-discretionary incentive payments, commissions, and/or other bonuses.

22. The FLSA, and Ohio and Oregon state law, require covered employers, such as Defendants, to compensate all non-exempt employees such as Plaintiffs, the FLSA Collective, and the Ohio and Oregon Classes, at a rate of not less than one and one-half times the regular rate of pay, for work performed in excess of forty (40) hours per workweek.

23. For purposes of federal and Ohio state law, an employee's "regular rate" of pay is determined by adding together the employee's total compensation—which includes the employee's hourly rate and non-discretionary incentive payments (bonuses and/or commissions)—and dividing it by the total number of hours worked during the week in which that compensation was earned.

24. Defendant suffered and permitted Plaintiffs, the FLSA Collective, and members of the Ohio and Oregon Classes to work more than forty (40) hours per week without receiving proper overtime pay by failing to include their incentive pay, commissions, and/or other bonuses in calculating their regular rate of pay used to pay overtime compensation.

25. For example, in the pay period ending October 19, 2014, Plaintiff Rodkey earned \$75.00 as incentive pay. During this same pay period, she worked 8.93 hours of overtime, and was paid one and one-half (1.5) times \$9.06 per hour for these overtime hours rather than one and one-half (1.5) times her regular rate of pay, which is properly calculated by adding her \$75.00 incentive pay to her hourly pay.

26. In the pay period ending November 15, 2015, Plaintiff Cummings earned \$752.13 in commissions. During this same pay period, she worked 1.25 hours of overtime, and was paid one and one-half (1.5) times \$17.25 per hour for these overtime hours rather than one and one-

half (1.5) times her regular rate of pay, which is properly calculated by adding her \$752.13 commission to her hourly pay.

27. Defendants' policy and practice of failing to include non-discretionary incentive pay, commissions, and/or other bonuses from their calculation of overtime compensation paid to Plaintiffs, the FLSA Collective, and members of the Ohio and Oregon Classes deprived them of the proper overtime wages guaranteed by federal law and state laws.

28. Defendants operated under a common scheme to deprive Plaintiffs, the FLSA Collective, and the Ohio and Oregon Classes of overtime compensation.

29. Defendants were, or should have been, aware that Plaintiffs, the FLSA Collective, and the Ohio and Oregon Classes performed work that required proper payment of overtime compensation, including non-discretionary, incentive or performance-based compensation.

30. Defendants knew Plaintiffs, the FLSA Collective, and members of the Ohio and Oregon Classes worked overtime hours and earned incentive pay, commissions, and/or other bonuses, and willfully failed and refused to them the proper overtime premium for all hours worked in excess of forty (40) hours per week.

### **FLSA COLLECTIVE ACTION ALLEGATIONS**

31. Pursuant to the FLSA, 29 U.S.C. § 216(b), Plaintiffs Rodkey and Cummings file this action on behalf of themselves, and as a collective action on behalf of all similarly situated individuals nationwide, the "FLSA Collective." The proposed FLSA Collective is defined as follows:

All nonexempt employees who were employed by Defendants and paid overtime and incentive pay, commissions, and/or other bonuses within the past three years preceding the Complaint filing date.

32. Plaintiffs have consented in writing to be a part of this action, pursuant to 29 U.S.C. § 216(b). Plaintiffs' signed consent forms are attached as Exhibit A. As this case advances, other individuals will likely sign consent forms and join as opt-in plaintiffs.

33. Plaintiffs and the FLSA Collective worked in excess of forty (40) hours per workweek without receiving proper overtime compensation for their overtime hours worked.

34. Plaintiffs and the FLSA Collective are victims of Defendants' widespread and systematic illegal policies that have resulted in violations of their rights under the FLSA, 29 U.S.C. § 201 et seq., and that have caused damages to Plaintiffs and the FLSA Collective.

35. Defendants' conduct as alleged in this Complaint constitutes a willful violation of the FLSA, within the meaning of 29 U.S.C. § 255.

36. Defendants are liable under the FLSA for failing to properly compensate Plaintiffs and the FLSA Collective. Accordingly, notice should be sent to the FLSA Collective. There are numerous individuals that are similarly situated to Plaintiffs who have also suffered damages due to Defendants' common policy of failing to pay proper overtime wages. These individuals would benefit from the issuance of court-supervised notice of this lawsuit and the opportunity to join. These individuals are known to Defendants and are readily identifiable through Defendants' records.

### **OHIO CLASS ACTION ALLEGATIONS**

37. Plaintiff Rodkey as the Ohio Class Representative brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following defined class:

All nonexempt employees who were employed by Defendants in the State of Ohio, and paid overtime and incentive pay, commissions, and/or other bonuses within the past three years preceding the Complaint filing date.

38. The members of the proposed Ohio Class are so numerous that joinder of all members is impractical and inefficient such that the requirements of Rule 23(a)(1) are met. The Ohio Class Representative does not know the exact number of class members, but she is informed and believes that at least one hundred (100) class members exist. The identities of the Ohio 23 Class members may be ascertained from Defendants' files and records.

39. There are common questions of law and fact affecting the class members, including but not limited to whether Defendants unlawfully failed to pay proper overtime compensation, the proper measure of damages sustained by the class members, and whether Defendants should be enjoined from such violations in the future. The requirements of Rule 23(a)(2) are met.

40. The Ohio Class Representative's claims are typical of the claims of the Ohio Class as a whole. The Ohio Class Representative and the Ohio Class have suffered harm due to Defendants' failure to pay them overtime compensation at the proper rate. The requirements of Rule 23(a)(3) are met.

41. The Ohio Class Representative will fairly and adequately protect the interests of the Ohio Class, pursuant to Rule 23(a)(4). Her interests are not inconsistent with and not antagonistic to the interests of the class. The Ohio Class Representative has retained counsel experienced in complex wage and hour class and collective action litigation.

42. Prosecuting separate actions by individual members of the proposed Ohio Class would create a risk that inconsistent or varying adjudications with respect to individual members of the class would establish incompatible standards of conduct for the party opposing the class and would substantially impair or impede the interest of other members of the class to protect their interests. Certification under Rule 23(b)(1) is appropriate.

43. Defendants have acted on grounds generally applicable to the class, thereby making final injunctive relief or declaratory relief appropriate with respect to the class as a whole. Certification under Rule 23(b)(2) is appropriate.

44. This class action is superior to other available methods for the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where individual plaintiffs lack the financial resources to vigorously prosecute separate lawsuits in federal court against large corporate defendants. The members of the proposed Ohio Class have been damaged and are entitled to recovery as a result of Defendants' common practices and uniform policies. The damages suffered by the Ohio Class members are small compared to the expense and burden of individually prosecuting this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants' practices. Certification under Rule 23(b)(3) is appropriate.

45. The Ohio Class Representative intends to send notice to all members of the proposed Ohio Class to the extent required by Rule 23.

#### **OREGON CLASS ACTION ALLEGATIONS**

46. Plaintiff Cummings as the Oregon Class Representative brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following defined class:

All terminated nonexempt employees who were employed by Defendants in the State of Oregon, and paid overtime and incentive pay, commissions, and/or other bonuses within the past three years preceding the Complaint filing date.

47. This Oregon Class expressly includes all individuals who were employed by Harry and David at the time it was sold to 1-800 Flowers on September 30, 2014, and who

became employed by 1-800 Flowers as a result of that sale. *See Wilson v. Smurfit Newsprint Corp.*, 107 P.3d 61, 66-67 (Or. Ct. App. 2005).

48. The members of the proposed Oregon Class are so numerous that joinder of all members is impractical and inefficient such that the requirements of Rule 23(a)(1) are met. The Oregon Class Representative does not know the exact number of class members, but she is informed and believes that forty five (45) class members exist. The identities of the Oregon Class members may be ascertained from Defendants' files and records.

49. There are common questions of law and fact affecting the class members, including but not limited to whether Defendants unlawfully failed to pay proper overtime compensation, the proper measure of damages sustained by the class members, and whether Defendants should be enjoined from such violations in the future. The requirements of Rule 23(a)(2) are met.

50. Oregon Class Representative's claims are typical of the claims of the Oregon Class as a whole. The Oregon Class Representative and the Oregon Class have suffered harm due to Defendants' failure to pay them proper overtime compensation for the hours they worked in excess of forty (40) hours per workweek. The requirements of Rule 23(a)(3) are met.

51. The Oregon Class Representative will fairly and adequately protect the interests of the Oregon Class, pursuant to Rule 23(a)(4). The Oregon Class Representative's interests are not inconsistent with and not antagonistic to the interests of the class. The Oregon Class Representative has retained counsel experienced in complex wage and hour class and collective action litigation.

52. Prosecuting separate actions by individual members of the proposed Oregon Class would create a risk that is inconsistent or varying adjudications with respect to individual

members of the class would establish incompatible standards of conduct for the party opposing the class and would substantially impair or impede the interest of other members of the class to protect their interests. Certification under Rule 23(b)(1) is appropriate.

53. Defendants have acted on grounds generally applicable to the class, thereby making final injunctive relief or declaratory relief appropriate with respect to the class as a whole. Certification under Rule 23(b)(2) is appropriate.

54. This class action is superior to other available methods for the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where individual plaintiffs lack the financial resources to vigorously prosecute separate lawsuits in federal court against large corporate defendants. The members of the proposed Oregon Class have been damaged and are entitled to recovery as a result of Defendants' common practices and uniform policies. The damages suffered by the Oregon Class members are small compared to the expense and burden of individually prosecuting this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants' practices. Certification under Rule 23(b)(3) is appropriate.

55. The Oregon Class Representative intends to send notice to all members of the proposed Oregon Class to the extent required by Rule 23.

### **CAUSES OF ACTION**

#### **COUNT I – VIOLATION OF THE FLSA** *On Behalf of Plaintiffs and the FLSA Collective*

56. The FLSA, 29 U.S.C. § 207, requires employers to pay overtime compensation to all non-exempt employees, at a rate of one and one-half times their regular rate of pay for all hours worked over forty (40) hours per workweek.

57. As a result of failing to include non-discretionary incentive pay, commissions, and/or other bonuses in calculating overtime compensation, Defendants routinely suffered and permitted Plaintiffs and the FLSA Collective to work more than forty (40) hours per week without receiving proper overtime compensation in violation of the FLSA.

58. Defendants' conduct as alleged in this Complaint constitutes a willful violation of the FLSA, within the meaning of 29 U.S.C. § 255, as Defendants knew or showed reckless disregard for the fact that their compensation practices violated the FLSA.

59. As the direct and proximate result of Defendants' unlawful conduct, Plaintiffs and the FLSA Collective have suffered and will continue to suffer a loss of income and other damages. Plaintiffs and the FLSA Collective are entitled to liquidated damages and attorneys' fees and costs incurred in connection with this claim.

**COUNT II – VIOLATION OF THE FLSA**  
***On Behalf of Plaintiff Cummings Individually***

60. The FLSA, 29 U.S.C. § 207, requires employers to pay overtime compensation to all non-exempt employees, at a rate of one and one-half times their regular rate of pay for all hours worked over forty (40) hours per workweek.

61. As an inside sales representative, Plaintiff Cummings' primary duty was to perform non-exempt work consisting of selling Defendants' products to small to mid-sized businesses over the telephone from inside Defendants' office located in Medford, Oregon.

62. At all times material, Plaintiff Cummings' primary job duty did not qualify for any of the exemptions from overtime pay set forth in the FLSA and in 29 C.F.R. Part 541.

63. During the Misclassification Period, Plaintiff Cummings was paid a salary equivalent of \$16.82 per hour for 40 hours per week, or \$1346.15 bi-weekly, as well as an annual incentive bonus and/or commission paid after the end of each fiscal year. During this time

period, she was misclassified as exempt under the FLSA and was not paid for hours worked over 40 hours per workweek.

64. During the Misclassification Period, Defendants suffered and permitted Plaintiff Cummings to work more than forty (40) hours per week without overtime compensation. For example, during ten weeks of the Fiscal Year 2015 Holiday Season, Plaintiff Cummings estimates that she worked approximately 20 hours of overtime per week without receiving overtime compensation.

65. In total, Plaintiff Cummings estimates that she worked approximately 1668 hours of unpaid overtime during the Misclassification Period.

66. Defendants violated the FLSA when they failed to pay Plaintiff Cummings for all of the overtime hours she worked during the Misclassification Period.

67. On or about October 19, 2015, Defendant 1-800 Flowers reclassified Plaintiff Cummings as non-exempt under the FLSA and began paying her \$17.25 per hour plus overtime for hours worked over 40 in a workweek, as well as a quarterly incentive bonus and/or commission paid after the end of each fiscal quarter.

68. Defendants knew or should have known that Plaintiff Cummings was misclassified as exempt as there have been prior lawsuits alleging misclassification of their inside sales representatives as exempt from overtime pay in federal court in Oregon and Ohio.

69. Further, upon reclassifying Plaintiff Cummings and other inside sales representatives from exempt to non-exempt under the FLSA, Defendants did not pay Plaintiff Cummings any back wages she earned since June 17, 2013.

70. By failing to accurately record, report, and/or preserve records of hours worked by Plaintiff Cummings, Defendants has failed to make, keep, and preserve records sufficient to

determine her wages, hours, and other conditions and practice of employment, in violation of the FLSA, 29 U.S.C. § 201, et seq.

71. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

72. As the direct and proximate result of Defendants' unlawful conduct, Plaintiff Cummings has suffered and will continue to suffer a loss of income and other damages. Plaintiff Cummings is entitled to liquidated damages and attorney's fees and costs incurred in connection with her individual misclassification claim.

**COUNT III – VIOLATION OF OHIO STATE LAW**  
***On Behalf of the Ohio Class Representative and the Ohio Class***

73. The Ohio Minimum Fair Wage Standards Act, Ohio Rev. Code Ann. § 4111.03, requires employers to pay overtime compensation to all non-exempt employees, at a rate of one and one-half times their regular rate of pay for all hours worked over forty (40) hours per workweek.

74. As a result of failing to include non-discretionary incentive pay, commissions, and/or other bonuses in calculating overtime compensation, Defendants routinely suffered and permitted the Ohio Class Representative and the Ohio Class to work more than forty (40) hours per week without receiving proper overtime compensation in violation of Ohio state law.

75. As the direct and proximate result of Defendants' unlawful conduct, the Ohio Class Representative and the Ohio Class have suffered and will continue to suffer a loss of income and other damages.

76. The Ohio Class Representative and the Ohio Class seek to recover attorneys' fees, costs, liquidated damages, and expenses of this action, to be paid by Defendants, as provided by Ohio Rev. Code Ann. § 4111.10, § 2305.11, and other applicable state laws.

77. The Ohio Class Representative and the Ohio Class seek damages in the amount of their underpayments based on Defendants' failure to pay lawful wages due, as provided by Ohio Rev. Code Ann. § 4111.03, and such other legal and equitable relief from Defendants' unlawful conduct as the Court deems proper.

**COUNT IV – VIOLATION OF OREGON STATE LAW**  
***On Behalf of the Oregon Class Representative and the Oregon Class***

78. Oregon Revised Statutes (ORS) 652.140 require employers to pay employees all compensation due and owing upon termination of employment.

79. As a result of failing to include non-discretionary incentive pay, commissions, and/or other bonuses in calculating overtime compensation as required by the FLSA, Defendants routinely suffered and permitted the Oregon Class Representative and the Oregon Class to work more than forty (40) hours per week without receiving the proper amount of overtime compensation when those overtime wages were due, in violation of Oregon state law.

80. The September 2014 acquisition of Harry and David by 1-800 Flowers resulted in the termination of the employment relationship between the Oregon Class and Harry and David.

81. At the time 1-800 Flowers acquired Harry & David in September 2014, all members of the Oregon Class employed on the date of the transaction were owed additional overtime compensation as the result of Defendant Harry and David's failure to properly include non-discretionary incentive pay, commissions, and/or other bonuses in calculating overtime compensation.

82. The failure to pay the Oregon Class all of overtime wages violated Oregon Revised Statute (ORS) 652.140 – Payment of Wages on Termination of Employment. As a result, the members of the Oregon Class employed on the date of the sale to 1-800 Flowers are

owed a full wage penalty pursuant to Oregon Revised Statute (ORS) 652.150 - Penalty Wage for Failure to Pay Wages on Termination of Employment.

83. Oregon Class members who began employment with Defendant 1-800 Flowers after September 30, 2014, and who are no longer employed by Defendant 1-800 Flowers, are owed their actual unpaid overtime wages, and an Oregon wage penalty pursuant to Oregon Revised Statute (ORS) 652.150 for failure to pay wages due on termination of employment.

84. As the direct and proximate result of Defendants' unlawful conduct, the Oregon Class Representative the Oregon Rule have suffered and will continue to suffer a loss of income and other damages.

85. The Oregon Class Representative and the Oregon Class seek penalty wages as provided by ORS 652.150 and ORS 653.055 based on Defendants' failure to pay lawful when wages due, and such other legal and equitable relief from Defendants' unlawful conduct as the Court deems proper.

86. The Oregon Class Representative and the Oregon Class seek to recover attorneys' fees, costs, penalty wages, and expenses of this action, to be paid by Defendants, as provided by ORS 652.200 and ORS 653.055, and other applicable state laws.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, on behalf of themselves and the FLSA Collective, pray for relief as follows:

- A. Designate this action as a collective action on behalf of all similarly situated individuals and promptly issue court-supervised notice to those individuals to apprise them of this pending action and permit them to timely assert FLSA claims in this action by filing individual consent forms, pursuant to 29 U.S.C. § 216(b);
- B. Judgment that Defendants' practices violate the FLSA;

- C. Judgment against Defendants in the amount of Plaintiffs' and the FLSA Collective's unpaid back wages at the applicable rates;
- D. Find that Defendants' FLSA violations were willful;
- E. Award Plaintiffs and the FLSA Collective all damages, liquidated damages, costs, and attorneys' fees incurred in prosecuting this action;
- F. Award prejudgment interest to Plaintiffs and the FLSA Collective (to the extent liquidated damages are not awarded) and post judgment interest;
- G. Leave to add additional plaintiffs by motion, by filing additional consent forms, or any other method approved by the Court;
- H. Leave to amend the Complaint to add additional federal and state law claims; and
- I. For all such further relief as the Court deems equitable and just.

**WHEREFORE**, Plaintiff Rodkey, on behalf of herself and as the Ohio Class Representative, prays for relief as follows:

- A. Certify this action as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of the Ohio Class;
- B. Appoint Plaintiff Rodkey as Class Representative and appoint her counsel as Class Counsel;
- C. Judgment that Defendants' practices violate the Ohio Minimum Fair Wage Standards Act;
- D. Award Plaintiff Rodkey and the Ohio Class all damages, liquidated damages, civil penalties, and prejudgment interest available;
- E. Award Plaintiff Rodkey and the Ohio Class all costs and attorneys' fees incurred prosecuting this claim;
- F. Leave to amend to the Complaint to add additional state law claims; and
- G. Such further relief as the Court deems just and equitable

**WHEREFORE**, Plaintiff Cummings, on behalf of herself and as the Oregon Class Representative, prays for relief as follows:

- A. Certify this action as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of the Oregon Class;
- B. Appoint Plaintiff Cummings as Class Representative and appoint her counsel as Class Counsel;
- C. Judgment that Defendants' practices violated Oregon Wage and Hour Laws;
- D. Award Plaintiff Cummings and the Oregon Class all damages, liquidated damages, civil penalties, and prejudgment interest available;
- E. Award Plaintiff Cummings and the Oregon Class all costs and attorneys' fees incurred prosecuting this claim;
- F. Leave to amend to the Complaint to add additional state law claims; and
- G. Such further relief as the Court deems just and equitable.

Dated: July 22, 2016

**MEIZLISH & GRAYSON, INC.**

/s/Bruce H. Meizlish

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