

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

HEATHER HOYT and LISA SODEKSON,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

PML CLUBS, INC., EAST COAST
RESTAURANT & NIGHTCLUBS, LLC
d/b/a THE GOLD CLUB,
and MICHAEL ROSE,

Defendants.

CIV. A. NO. _____

COLLECTIVE ACTION COMPLAINT AND JURY DEMAND

I. INTRODUCTION

1. Plaintiffs, Heather Hoyt and Lisa Sodekson, bring this collective action on behalf of themselves and all other exotic dancers who have worked at the Gold Club, a chain of strip clubs owned and managed by Defendant Michael Rose, located throughout the country, including Myrtle Beach and Hilton Head, South Carolina; Bedford, New Hampshire; Las Vegas, Nevada; Greensboro, North Carolina; San Francisco and San Jose, California; and Wilmington, Delaware.

2. In this action, Plaintiffs claim that Defendants have misclassified their exotic dancers as independent contractors rather than employees, and that Defendants have paid their dancers less than the full federal minimum wage, while failing to allow them to retain all of their tips. Plaintiffs bring this action on their own behalf, and on

behalf of all dancers who have worked at any Gold Club location in the country and who may choose to opt-in to this case under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*

II. PARTIES, JURISDICTION, AND VENUE

3. Plaintiff Heather Hoyt is an adult resident of Franklin, New Hampshire. She worked as an exotic dancer at the Gold Club in Bedford, New Hampshire, from 2010 until approximately December 2014.

4. Plaintiff Lisa Sodekson is an adult resident of Beverly, Massachusetts. She worked as an exotic dancer at the Gold Club in Bedford, New Hampshire, from approximately May 2012 until September 2012.

5. Defendant PML Clubs, Inc. is a Delaware corporation with its principal place of business in Myrtle Beach, South Carolina, which operates “Gold Club” strip clubs across the country, including in Myrtle Beach and Hilton Head, South Carolina; Bedford, New Hampshire; Las Vegas, Nevada; Greensboro, North Carolina; San Francisco and San Jose, California; and Wilmington, Delaware.

6. Defendant East Coast Restaurant & Nightclubs, LLC d/b/a The Gold Club is a New Hampshire limited liability company with its principal place of business in the state of New Hampshire.

7. Defendant Michael Rose is an adult resident of Myrtle Beach, South Carolina, and the registered agent, owner, and officer of the Defendant clubs. Rose directed and controlled the payment policies of the clubs and the rules with respect to the dancers.

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b), because this action is based on the FLSA.

9. This Court has personal jurisdiction over all Defendants.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, because at least one Defendant is located within in this judicial district and division, and the unlawful labor practices giving rise to Plaintiffs' claims and those of the Plaintiff class were committed, at least in part, within the Florence Division of this Court.

III. STATEMENT OF FACTS

11. Defendants have misclassified exotic dancers who have worked at the Gold Club, at all of their locations throughout the country, as independent contractors, when in reality they are employees of Defendants.

12. Defendants have exercised extensive control over the manner in which their exotic dancers perform their jobs and conduct themselves while on Defendants' premises, including when and how Plaintiffs perform, what they are allowed to wear, what music they perform to, how much they can receive for private dances and sessions, and how they can interact with customers.

13. In addition, Defendants are in the business of providing adult entertainment to their patrons. The dancers perform services in the usual course of the Defendants' business, and without the dancers, Defendants would have no business.

14. The exotic dancers who have worked at Defendants' clubs have not received any wages or other compensation directly from Defendants. Instead, any compensation they have received has come directly from patrons in the form of gratuities or tips.

15. In order to perform their jobs, the dancers have been required to pay “house fees” to Defendants. For example, for certain shifts, they may be required to pay \$50 to the house.

16. The dancers have also been required to share their tips with managers, or non-service employees, such as “house moms” and disc jockeys.

17. At all times relevant to this Complaint, Defendants have treated all Plaintiffs and the members of the Plaintiff class in a substantially similar manner. Upon information and belief, Defendants’ policies and procedures with regard to how exotic dancers are compensated are uniform at all of Defendants’ club locations throughout the country.

COUNT 1

18. Defendants PML Clubs, Inc. and East Coast Restaurant & Nightclubs, LLC are “employers” for purposes of the Fair Labor Standards Act, 29 U.S.C. § 203(s), because they have annual gross sales or business of at least \$500,000 and have employees engaged in interstate commerce.

19. Defendant PML Clubs, Inc. is involved in a unified operation involving common control for a common business purpose with the various Gold Club locations. Defendants are part of the same business enterprise for purposes of the FLSA.

20. The individual Defendant, Michael Rose, is also an “employer” under 29 U.S.C. § 203(d) because he has acted directly or indirectly in the interests of Defendants in relation to their employees, including Plaintiffs and other exotic dancers who have worked at Gold Club locations around the country.

21. Plaintiffs and the members of the Plaintiff class were employees of

Defendants for purposes of the Fair Labor Standards Act during all times relevant to this Complaint.

22. Defendants have failed to pay Plaintiffs and the members of the Plaintiff class an hourly rate of at least the minimum wage of \$7.25 per hour as required by the FLSA, 29 U.S.C. § 206(a)(1)(C).

23. Defendants are not permitted to take the tip credit against the minimum wage (and thus pay the reduced hourly rate for tipped employees of \$2.13 per hour) because they did not provide the required notice to Plaintiffs and the members of the Plaintiff class, and because Plaintiffs and the member of the Plaintiff class were not allowed to keep all tips received by them, but instead were required to share their tips with management and with other employees or agents of Defendants who are not among employees who customarily and regularly receive tips, and not pursuant to a valid tip pooling or sharing arrangement under applicable law.

24. Plaintiffs and the members of the Plaintiff class are entitled to back wages at the minimum wage rate of \$7.25 per hour for every hour worked, pursuant to the FLSA, 29 U.S.C. § 216(b).

25. The failure of Defendants to compensate Plaintiffs and the members of the Plaintiff class at least minimum wage was knowing, willful, intentional, and done in bad faith.

26. Plaintiffs and the members of the Plaintiff class are also entitled to liquidated damages equal to the amount of unpaid minimum wages due to them under the FLSA, pursuant to the FLSA, 29 U.S.C. § 216(b).

27. Plaintiffs are also entitled to an award of reasonable attorneys' fees and

costs incurred in prosecuting this action, pursuant to 29 U.S.C. § 216(b).

WHEREFORE, Plaintiffs request that the Court enter the following relief:

- a. An order authorizing the sending of appropriate notice to current and former employees of Defendants who are potential members of the collective action under the Fair Labor Standards Act, giving them the opportunity to opt-in to this action;
- b. A declaratory judgment that Defendants have willfully and in bad faith violated the minimum wage provision of the FLSA, and have deprived Plaintiffs and the members of the Plaintiff class of their rights to such compensation;
- c. An order requiring Defendants to provide a complete and accurate accounting of all the minimum wages to which Plaintiffs and the members of the Plaintiff class are entitled;
- d. An award of monetary damages to Plaintiffs and the members of the Plaintiff class in the form of back pay for unpaid minimum wages, together with liquidated damages in an equal amount;
- e. Attorneys' fees and costs; and
- f. Such further relief as the Court deems just and proper.

PLAINTIFFS HEREBY DEMAND A TRIAL BY JURY.

Respectfully submitted,

s/ David E. Rothstein

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July 8, 2015

Greenville, SC.