

# EXHIBIT A

STATE OF SOUTH CAROLINA )

COUNTY OF CLARENDON )

BILL T. JOHNSON and DALE )  
MILLER, individually and on behalf of )  
others similarly situated, )

Plaintiffs, )

v. )

PIGGLY WIGGLY of SUMTER, INC., )  
PIGGLY WIGGLY WHEATON ST., INC., )  
PIGGLY WIGGLY MULLINS, INC., )  
PIGGLY WIGGLY CAROLINA )  
COMPANY, INC. and COMPANY DOE )  
ONE THROUGH NUMEROUS, ALL )  
COMPANY DOES BEING EMPLOYERS )  
OF ONE OR MORE MEMBERS OF THE )  
PLAINTIFFS' CLASS, )

Defendants. )

COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT

2015-CP-14-305

SUMMONS

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE

DATE 6/11/15

Beulah B. Roberts

CLERK OF COURT  
CLARENDON COUNTY, SC

BEULAH B. ROBERTS  
CLERK OF COURT  
CLARENDON COUNTY, SC  
2015 JUN 11 PM 12:01

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their office at 11019 Tournament Boulevard Suite 202, Post Office Box 829, Murrells Inlet, South Carolina, 29576, within thirty (30) days after the service hereof; exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for judgment by default for relief demanded in the Complaint and judgment will be rendered against you.

[SIGNATURE PAGE TO FOLLOW]

**GOLDFINCH WINSLOW, LLC**

By:



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**ATTORNEYS FOR PLAINTIFFS**

May 15, 2015  
Murrells Inlet, South Carolina

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	
BILL T. JOHNSON and DALE	)	
MILLER, individually and on behalf of	)	
others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	<b><u>COLLECTIVE ACTION</u></b>
v.	)	<b><u>COMPLAINT</u></b>
	)	<b>(Jury Trial Requested)</b>
PIGGLY WIGGLY of SUMTER, INC.,	)	
PIGGLY WIGGLY WHEATON ST., INC.,	)	
PIGGLY WIGGLY MULLINS, INC.,	)	
PIGGLY WIGGLY CAROLINA	)	
COMPANY, INC. and COMPANY DOE	)	<b>CERTIFIED TRUE COPY</b>
ONE THROUGH NUMEROUS, ALL	)	<b>OF ORIGINAL FILED IN THIS OFFICE</b>
COMPANY DOES BEING EMPLOYERS	)	<b>DATE</b> <u>6/11/15</u>
OF ONE OR MORE MEMBERS OF THE	)	<u>Beulah S. Roberts</u>
PLAINTIFFS' CLASS,	)	<b>CLERK OF COURT</b>
	)	<b>CLARENDON COUNTY, SC</b>
Defendants.	)	

BEULAH S. ROBERTS  
CLERK OF COURT  
CLARENDON COUNTY, SC  
2015 JUN 11 PM 12:02

Plaintiffs Bill T. Johnson ("Plaintiff Johnson") and Dale Miller ("Plaintiff Miller"), on behalf of themselves and all other persons similarly situated, (collectively "Plaintiffs") complaining of the Defendants Piggly Wiggly of Sumter, Inc., Piggly Wiggly Wheaton St., Inc., Piggly Wiggly Mullins, Inc., Piggly Wiggly Carolina Company, Inc., and Company Doe one through numerous, all Company Does being employers of one or more members of Plaintiffs' Class (collectively "Defendants") allege and show as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiffs at all times relevant herein worked for one or more of the Defendants.
2. Defendant Piggly Wiggly of Sumter, Inc. is a business organized and existing under the laws of the State of South Carolina and at all times relevant herein was doing and continues to do business in the County of Sumter.

3. Defendant Piggly Wiggly Wheaton St., Inc. is a business organized and existing under the laws of the State of South Carolina and at all times relevant herein was doing and continues to do business in the County of Sumter.

4. Defendant Piggly Wiggly of Mullins, Inc. is a business organized and existing under the laws of the State of South Carolina and at all times relevant herein was doing and continues to do business in the County of Marion.

5. Defendant Piggly Wiggly Carolina Company, Inc. is a business organized and existing under the laws of the State of South Carolina and at all times relevant herein was doing and continues to do business in the County of Clarendon.

6. Jurisdiction and venue is proper in Clarendon County because one or more of the Defendants have conducted substantial, continuous and systematic commercial activities in the County of Clarendon, South Carolina and the events giving rise to one or more of the Plaintiffs' causes of action took place in the County of Clarendon, South Carolina.

7. Plaintiffs bring this action, individually and as an opt-in collective action pursuant to 29 U.S.C. § 216(b), on behalf of a class of all employees employed with one or more of the Defendants, who were non-exempt employees and who worked in excess of forty (40) hours in any given work week, but who did not receive overtime compensation for such hours.

8. Plaintiffs are informed and believe, and based thereon allege, that each Defendant is engaged in interstate commerce or in the production of interstate commerce as defined by the Act, 29 U.S.C. §203(r) and 203(s).

#### **CLASS ALLEGATIONS**

9. This action is brought individually and as a class action for unpaid overtime compensation, for liquidated damages, and for other relief set forth herein under Rule 23 of the

South Carolina Rules of Civil Procedure for causes of action under the South Carolina Payment of Wages Act, S.C. Code Ann. § 41-10-1, *et seq.*

10. This action is also brought individually and as a collective action for unpaid overtime compensation, for liquidated damages, and for other relief set forth herein under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (“FLSA”). The collective action provision under the FLSA provides for opt-in class participation.

11. Plaintiffs bring this class and collective action for themselves and on behalf of a similarly situated class (“the Class” or “Plaintiffs”).

12. Members of the Class are so numerous that joinder of all members is impracticable. The disposition of the Plaintiffs’ claims in a class action will provide substantial benefits to the parties and to the Court.

13. The questions of law and fact pertaining to the Plaintiffs are common to those of the Class.

14. Plaintiffs’ claims are typical of the claims of the Class as Plaintiffs and all members of the Class were denied overtime compensation by one or more of the Defendants. Each class member has been similarly injured by the Defendants’ wrongful acts of failing to pay overtime compensation as provided by law.

15. The named Plaintiffs and their counsel will fairly and adequately protect the interests of the Class.

16. Certification of this action as a class under Rule 23 of the South Carolina Rules of Civil Procedure is appropriate.

**FACTS**

17. Plaintiffs, on behalf of themselves and all similarly situated employees, incorporate the above allegations by reference.

18. Each Plaintiff in the Class worked for, or is currently working for, one or more Defendants.

19. Defendants own and operate individual Piggly Wiggly Stores throughout South Carolina.

20. Each store is a franchise of Defendant Carolina Company.

21. Upon information and belief, Defendant Carolina Company adopted and instituted a policy in which Piggly Wiggly franchise employees would be paid "incentive pay" rather than overtime pay.

22. Plaintiffs were always under the supervision of another employee(s).

23. Plaintiffs were never in charge of managing Defendants' stores or departments in which they worked.

24. At all times relevant to this Complaint, Plaintiffs were non-exempt employees for purposes of the FLSA.

25. Defendants required Plaintiffs, and all other similarly situated employees, to work a minimum of forty-eight (48) hours per week.

26. Defendants paid Plaintiffs a set hourly rate for the first forty (40) hours they worked in a work week.

27. Defendants paid Plaintiffs less than half their hourly rate for any and all hours worked over forty (40) hours.

28. Defendants never paid Plaintiffs one and one-half their regular rate of pay (“time and a half”) for each hour worked over forty (40) hours in a given week.

**FIRST CAUSE OF ACTION**  
**(AGAINST ALL DEFENDANTS)**  
**(South Carolina Payment of Wages Act)**  
**(Individual and Class Action)**

29. Plaintiffs, on behalf of themselves and all similarly situated employees, incorporate the above allegations by reference.

30. Pursuant to South Carolina Code of Laws Sections 41-10-10 *et seq.*, the South Carolina Wage Payment Act (“Wage Payment Act”), Defendants are required to compensate Plaintiffs for all hours worked for Defendants and are required to pay Plaintiffs wages in the amount of one and one-half their regular rate of pay for each hour worked over forty (40) in a given work week (“Overtime Pay”).

31. One or more of the Defendants employed one or more members of the Class within the State of South Carolina.

32. Each Defendant is an “employer” within the meaning of the Wage Payment Act.

33. Each Plaintiff is an “employee” within the meaning of the Wage Payment act.

34. Defendants knowingly, willfully and intentionally failed to pay Plaintiffs Overtime Pay due to them, in violation of the Wage Payment Act.

35. As a result of Defendant’s violation of the Wage Payment Act, Plaintiff requests the relief as set forth below.



**SECOND CAUSE OF ACTION**  
**(AGAINST ALL DEFENDANTS)**  
**(Fair Labor Standards Act – Failure to Pay Overtime Wages)**  
**(Individual and Collective Action)**

36. Plaintiffs, on behalf of themselves and all similarly situated employees, incorporate the above allegations by reference.

37. Plaintiffs and the members of Plaintiffs' class were employees of one or more of the Defendants for purposes of the FLSA during all times relevant hereto.

38. Defendants failed to pay Plaintiffs and members of Plaintiffs' class at the rate of one and one-half their regular rate of pay for all hours worked in excess of forty (40) hours per week, as required by Section 7(a) of the FLSA, 29 U.S.C. § 207(a).

39. Plaintiffs and the members of Plaintiffs' class are entitled to back wages at the rate of one and one-half times their regular rate of pay for all overtime hours worked in excess of forty (40), pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216 (b).

40. Defendants' failure to compensate Plaintiffs for overtime work as required by the FLSA was knowing, willful, intentional, and done in bad faith.

41. Pursuant to Section 11(c) of the FLSA, 29 U.S.C. § 211(c), and the regulations of the United States Department of Labor, Defendants are required to maintain and preserve any and all payroll and employment records in the possession, custody and/or control of Defendants from which the amount of Defendants' liability can be ascertained.

42. As a result of Defendant's violation of the FLSA, as set forth above, Plaintiffs request the relief as set forth below.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs and similarly situated employees who join this action demand judgment against Defendants as follows:

1. An Order certifying a class action under Rule 23 of the South Carolina Rules of Civil Procedure to remedy the class-wide violations of the South Carolina Payment of Wages Act;
2. Designation of this action as a collective action on behalf of the FLSA collective class pursuant to 29 U.S.C. § 216(b);
3. Judgment against Defendants that their violations of the FLSA and South Carolina Payment of Wages Act were willful;
4. For all actual and consequential damages that Plaintiffs have suffered in an amount the court should find appropriate.
5. For all unpaid wages earned by the Plaintiffs as a result of their employment with Defendant as fully alleged in the Action, specifically including all wages denied pursuant to S.C. Code Ann. § 41-10-10 *et seq*;
6. For damages totaling three (3) times the full amount of the unpaid wages due to the Plaintiff pursuant to S.C. Code Ann. § 41-10-80 (C);
7. For reasonable attorney's fees and costs incurred by the Plaintiff in this action pursuant to S.C. Code Ann. § 41-10-80 (C);
8. Exemplary and punitive damages in an amount commensurate with the Defendant's ability and so as to deter future malicious, reckless and/or intentional conduct;
9. Leave to add additional Plaintiffs by motion, filed written consents, or other method approved by the Court;
10. Leave to amend to add other Defendants who meet the definition of Plaintiffs' employer, 29 U.S.C. § 203(d);
11. An Order requiring Defendants to produce to Plaintiff's Counsel any and all payroll and employment records pertaining to this lawsuit for the Plaintiffs and all similarly situated employees.
12. Injunctive relief to require Defendants to maintain and preserve any and all payroll and employment records pertaining this lawsuit and to the Plaintiffs and all similarly situated employees as required by the FLSA

13. Pre-judgment and post-judgment interest, as provided by law;
14. Attorneys' fees and costs; and
15. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

**GOLDFINCH WINSLOW, LLC**

By: 

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May 15, 2015  
Murrells Inlet, South Carolina