

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

ANGELA STOREY, on behalf of herself and all  
others similarly situated,

Plaintiff,

v.

**KING STREET GRILLE, LLC; KING  
STREET GRILLE -NORTHWOODS, LLC;  
KING STREET GRILLE VENTURES, LLC;  
KING STREET GRILLE - CHARLESTON,  
LLC; KING STREET GRILLE - WEST  
ASHLEY, LLC; KING STREET GRILLE -  
MURRELLS INLET, LLC; KING STREET  
GRILLE - MYRTLE BEACH, LLC; KING  
STREET GRILLE - FRESH FIELDS, LLC;  
GREG KIER, individually; SCOTT KIER,  
individually; and JOHN DOES 1-20,  
individually,**

Defendants.

C/A: 2:16-cv-942-CWH

**FLSA COLLECTIVE ACTION  
and  
RULE 23 CLASS ACTION**

**JURY TRIAL DEMANDED**

Plaintiff, Angela Storey (“Storey”), on behalf of herself and all others similarly situated, (all jointly “Plaintiffs”), complaining of the acts of Defendants **King Street Grille, LLC** (“KSG”); King Street Grille - Northwoods, LLC (“KSG-NW”); King Street Grille Ventures, LLC (“KSGV”); King Street Grille - Charleston, LLC (“KSG-C”); King Street Grille - West Ashley, LLC (“KSG-WA”); King Street Grille - Murrells Inlet, LLC (“KSG-MI”); King Street Grille - Myrtle Beach, LLC (“KSG-MB”); King Street Grille - Fresh Fields, LLC (“KSG-FF”); Greg Kier (“G. Kier”); Scott Kier (“S. Kier”); and John Does 1-20 (“Does”) (KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; KSG-FF; G. Kier; S. Kier; and Does collectively “Defendants”) alleges as follows:

### **NATURE OF CLAIM**

1. This action is brought individually and as a collective action for actual damages, liquidated damages, attorneys' fees and costs, and for other relief under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. ("FLSA"). The collective action provisions under the FLSA, § 216(b), provide for opt-in class participation.

2. This action is also brought individually and as a class action for unauthorized deductions from wages, and for other relief under the South Carolina Payment of Wages Act, South Carolina Code Ann. § 41-10-10, et. seq. ("SCPWA"). These claims are proposed as opt-out class claims under Rule 23 of the Federal Rules of Civil Procedure *for individuals employed in South Carolina only*.

### **PARTIES, JURISDICTION, and VENUE**

3. Plaintiffs reallege each and every allegation contained in the above paragraphs as if repeated here verbatim.

4. Storey is a citizen and resident of the State of South Carolina, County of Charleston.

5. KSG is a South Carolina limited liability company maintaining offices and agents in the county of Charleston, state of South Carolina. KSG is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

6. KSG-NW is a South Carolina limited liability company maintaining offices and agents in the county of Charleston, state of South Carolina. KSG-NW is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

7. KSGV is a South Carolina limited liability company maintaining offices and agents in the county of Charleston, state of South Carolina. KSGV is an employer of individuals

and operates at least one (1) restaurant doing business as **King Street Grille**.

8. KSG-C is a South Carolina limited liability company maintaining offices and agents in the county of Charleston, state of South Carolina. KSG-C is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

9. KSG-WA is a South Carolina limited liability company maintaining offices and agents in the county of Charleston, state of South Carolina. KSG-WA is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

10. KSG-MI is a South Carolina limited liability company maintaining offices and agents in the county of Georgetown, state of South Carolina. KSG-MI is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

11. KSG-MB is a South Carolina limited liability company maintaining offices and agents in the county of Horry, state of South Carolina. KSG-MB is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

12. KSG-FF is a South Carolina limited liability company maintaining offices and agents in the county of Charleston, state of South Carolina. KSG-FF is an employer of individuals and operates at least one (1) restaurant doing business as **King Street Grille**.

13. Upon information and belief, G. Kier is a citizen and resident of the County of Charleston, State of South Carolina, and an owner and officer of one or more of the following entities: KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; and KSG-FF, all doing business as **King Street Grille**.

14. Upon information and belief, S. Kier, is a citizen and resident of the County of Charleston, State of South Carolina, and an owner and officer of one or more of the following entities: KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; and KSG-FF, all

doing business as **King Street Grille**.

15. Upon information and belief, John Doe 1-20 are citizens and residents of South Carolina, and owners and / or officers of one or more of the following entities: KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; and KSG-FF, all doing business as **King Street Grille**.

16. Storey was employed at KSG-NW, doing business as, **King Street Grille**, in the County of Charleston, State of South Carolina. A substantial part of the events giving rise to these claims occurred in Charleston County.

17. This court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 based upon Storey's claims under the FLSA.

18. Storey brings this action, as an opt-in Collective Action pursuant to 29 U.S.C. § 216(b), on behalf of a class of individuals who were employed by Defendants at any time within the three (3) years prior to joining this lawsuit, who were nonexempt employees paid a direct, or hourly, rate less than the minimum wage of Seven and 25/100 dollars (\$7.25) per hour and were not paid at least \$7.25 per hour for all hours worked.

19. Venue in this District and in this Division is appropriate pursuant to 28 U.S.C. 1391(b)(2) and 1391(c), as a substantial part of the events giving rise to the claims herein occurred in this Division, the Defendants have extensive and deliberate contacts in this Division, and one of the individual Defendants is a resident of this Division.

20. Based upon the above, jurisdiction and venue are proper in this court and division.

21. The work and pay records, including the "tip-out" reports, of Storey and the members of the Plaintiff class are in the possession, custody, and/or control of Defendants, and Defendants are under a duty, pursuant to section 11(c) of the FLSA, 29 U.S.C. § 211(c), and the

regulations of the United States Department of Labor, to maintain and preserve such payroll and other employment records from which the amount of Defendants' liability can be ascertained. Plaintiffs request an order of this Court requiring Defendants to preserve such records during the pendency of this action.

### **FACTS**

22. Plaintiffs reallege each and every allegation contained in the above paragraphs as if repeated here verbatim.

23. Defendants own(ed) and operate(d) **King Street Grille** Restaurants in North Charleston, South Carolina; Downtown Charleston, South Carolina; James Island, South Carolina; West Ashley, South Carolina; Murrells Inlet, South Carolina; Myrtle Beach, South Carolina; and Kiawah, South Carolina. All **King Street Grille** Restaurants operate under the same policies and procedures implemented by one Director of Operations, Tod Dundas.

24. G. Kier exercises operational control over one or more of the following: KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; and KSG-FF. On information and belief, G. Kier was involved in the decisions to set the wages and pay for Plaintiffs, or he hired the individuals to whom he delegated this authority, therefore, G. Kier is individually liable to Plaintiffs.

25. S. Kier exercises operational control over KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; and KSG-FF. On information and belief, S. Kier was involved in the decisions to set the wages and pay for Plaintiffs, or he hired the individuals to whom he delegated this authority, therefore, S. Kier is individually liable to Plaintiffs.

26. Doe exercises operational control over KSG-NW; KSG; KSGV; KSG-C; KSG-WA; KSG-MI; KSG-MB; and KSG-FF. On information and belief, Doe was involved in the

decisions to set the wages and pay for Plaintiffs, or he hired the individuals to whom he delegated this authority, therefore, Doe is individually liable to Plaintiffs.

27. Storey was employed as a server from 2014 until January of 2016 at KSG-NW.

28. Defendants paid Plaintiffs an hourly wage less than the statutory minimum wage by taking the “Tip Credit” under the FLSA, 29 U.S.C. § 203(m).

29. Plaintiffs did not always receive an additional amount in tips to equal the difference between the statutory minimum wage of \$7.25 and the direct, or hourly, wage paid.

30. Defendants knowingly allowed Plaintiffs to work off the clock.

31. Defendants intentionally adjusted time and pay records.

32. Storey questioned management of Defendants on the practices of whether the pay practices were legal, but Defendants continued in reckless disregard in violating the FLSA.

**FOR A FIRST CAUSE OF ACTION**  
**Violation of Fair Labor Standards Act**  
**29 U.S.C. § 203(m), 206**  
**(Violation of Tip Credit / Failure to Pay Proper Minimum Wage)**

33. Plaintiffs reallege each and every allegation contained in the above paragraphs as if repeated here verbatim.

34. At all times pertinent to this Complaint, Defendants engaged in interstate commerce or in the production of goods for commerce as defined by 29 U.S.C. § 203(r) and 203(s).

35. At all times relevant to this Complaint, Defendants’ annual gross volume of sales made or business done was not less than Five Hundred Thousand and 00/100 dollars (\$500,000.00). Alternatively, Plaintiffs worked in interstate commerce so as to fall within the protection of the FLSA.

36. The business of Defendants was and is an enterprise engaged in commerce as defined by 29 U.S.C. § 203(s)(1) and, as such, Defendants are subject to, and covered by, the FLSA.

37. The FLSA, 29 U.S.C. § 206, requires employers to pay its nonexempt employees a minimum wage of Seven and 25/100 dollars (\$7.25) an hour.

38. The FLSA, 29 U.S.C. § 203(m), provides an exception allowing certain employers to take a “Tip Credit” and pay less than the statutory minimum wage to tipped employees, on the condition that an additional amount of tips received by a tipped employee is equal to the difference between the amount paid and the current statutory minimum wage.

39. Plaintiffs often did not receive enough in tips to meet or exceed the difference between the amount paid and the current statutory minimum wage.

40. Defendants have violated the FLSA, 29 U.S.C. § 203(m), 206, in reckless disregard of the rights of Plaintiffs.

41. As such, Plaintiffs seek to recover from Defendants the following damages:

- a. actual damages;
- b. liquidated damages of an equal amount; and
- c. reasonable attorneys’ fees and the costs and disbursements of this action.

**FOR A SECOND CAUSE OF ACTION**  
**Violation of Fair Labor Standards Act**  
**29 U.S.C. § 207**  
**(Failure to Pay Proper Overtime Wage)**

42. Plaintiffs reallege each and every allegation contained in the above paragraphs as if repeated here verbatim.

43. Pursuant to the terms of the FLSA, 29 U.S.C. § 207, an employer must pay a nonexempt employee time and a half for all hours worked over forty (40) hours in a workweek.

44. Plaintiffs often did not receive enough in tips to meet or exceed the difference between the amount paid and the proper overtime wage, therefore, Defendants failed to pay Plaintiffs and all other similarly situated employees the proper amount for all hours worked over

forty (40) hours in a workweek or overtime hours worked.

45. Defendants have violated the FLSA, 29 U.S.C. § 207, in reckless disregard of the rights of Plaintiffs.

46. As such, Plaintiffs seeks to recover from Defendants the following damages:

- a. actual damages;
- b. liquidated damages of an equal amount; and
- c. reasonable attorneys' fees and the costs and disbursements of this action.

**FOR A THIRD CAUSE OF ACTION**  
**(South Carolina Payment of Wages Act)**  
**(Individual and Class Action)**

47. Plaintiffs, on behalf of themselves and all similarly situated employees, reallege and incorporate by reference all preceding paragraphs as if they were set forth herein verbatim.

48. Each Defendant is an "employer" as defined by the South Carolina Payment of Wages Act, S.C. Code Ann. § 41-10-10(1).

49. Defendants employed Plaintiffs and the members of the Plaintiffs' class within the State of South Carolina.

50. Defendants owe Plaintiffs and the members of the Plaintiffs' class "wages" as defined in § 41-10-10(2) of the Act, to compensate them for all labor rendered to Defendants, as promised to Plaintiffs and the members of the Plaintiffs' class and as required by law, including overtime pay required by the FLSA.

51. Defendants required Plaintiffs and the members of the Plaintiffs' class to work "off the clock," by not allowing them to be clocked in for the entirety of their hours worked or adjusting their clock in and therefore did not pay them for all service rendered for the benefit of Defendants.



52. Defendants have failed to pay Plaintiffs and the members of the Plaintiffs' class all wages due, as required by §§ 41-10-40 and -50 of the Act.

53. Defendants actions were willful, and Defendants have no good faith reason why they took this action.

54. Pursuant to S.C. Code § 41-10-80(C), Plaintiffs and the members of the Plaintiffs' class are entitled to recover in this action an amount equal to three times the full amount of their unpaid wages, and their wrongfully deducted wages, plus costs and reasonable attorneys' fees.

WHEREFORE, having fully set forth their allegations against Defendants, Plaintiffs respectfully request that the Court enter judgment for the following relief:

- a. An order authorizing the sending of appropriate notice to current and former employees of Defendants who are putative members of the collective action, but have yet "opted-in," under the FLSA;
- b. An order prohibiting Defendants from violating the FLSA, particularly the Tip Credit, in the future;
- c. For Plaintiffs, under the first and second causes of actions:
  - i. actual damages in an amount to be determined;
  - ii. liquidated damages of an equal amount;
- d. An order certifying a class action under Rule 23 of the Federal Rules of Civil Procedure to remedy the class-wide violations of the South Carolina Payment of Wages Act;
- e. Actual damages in the amount of wages due under SCPWA;
- f. Treble damages pursuant to SCPWA;
- g. Reasonable attorneys' fees and costs;

h. Injunctive relief ordering Defendants to amend their wage and hour policies to comply with applicable federal and state laws; and

i. Such further relief as the Court deems just and proper.

Plaintiffs request a trial by jury.



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**ATTORNEY FOR ANGELA STOREY, on  
behalf of herself and all others similarly situated**

CHARLESTON, SC

March 24, 2016

**CONSENT TO JOIN LAWSUIT**  
(Pursuant to 29 U.S.C. § 216(b))

Angela Storey, et al. v. King Street Grille, LLC, et al.

C/A: \_\_\_\_\_

Please type or print in ink the following:

1. Name: Angela Storey
2. Address\*: 2175 W. 10th Ave, Suite 200, Denver, CO 80202
3. Ce
4. En
5. Lo
6. Da
7. Pos

8. I consent and agree to pursue claims arising out of my employment as an employee at King Street Grille with this lawsuit. I hereby authorize Plaintiffs' attorney to file this Consent with the Clerk of Court and to represent me for all purposes in this action.
9. I also designate the collective action Representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, including the method and manner of conducting the litigation, entering into settlement agreements, the entering of an agreement with Plaintiffs' Counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

*\*This contact information is for your attorneys. It will be redacted when filed with the court.*

Date: 2/2/15

Signature

Angela Storey