

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS**

-----X  
**HAIDER ALI, on behalf of himself and** : **Index No: 702590/2017**  
**all others similarly situated,** : **Date Filed: 2/23/2017**  
:   
**Plaintiff,** : **SUMMONS**  
:   
**-against-** :   
:   
**56 EAST SUNRISE CORP d/b/a** :   
**DUNKIN DONUTS, SUZANNE** :   
**JANTZEN and DIANE MORALES** :   
:   
**Defendants.** :   
-----X

To: 56 East Sunrise Corp.  
56 East Sunrise Hwy  
Merrick, NY 11566

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Queens County as the place of trial.

The basis for venue is Plaintiff's place of residence.

Dated: February 23, 2017  
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.  
Attorneys for Plaintiff  
1613 Northern Boulevard  
Roslyn, NY 11576  
(516) 625-0105

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: **-against-** :  
: **56 EAST SUNRISE CORP d/b/a** :  
**DUNKIN DONUTS, SUZANNE** :  
**JANTZEN and DIANE MORALES** :  
**Defendants.** :  
-----X

To: Suzanne Jantzen  
56 East Sunrise Hwy  
Merrick, NY 11566

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Queens County as the place of trial.

The basis for venue is Plaintiff's place of residence.

Dated: February 23, 2017  
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.  
Attorneys for Plaintiff  
1613 Northern Boulevard  
Roslyn, NY 11576  
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**56 EAST SUNRISE CORP d/b/a** :  
**DUNKIN DONUTS, SUZANNE** :  
**JANTZEN and DIANE MORALES** :  
**Defendants.** :  
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To: Diane Morales  
545 Uniondale Ave  
Uniondale, NY 11553

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Queens County as the place of trial.

The basis for venue is Plaintiff's place of residence.

Dated: February 23, 2017  
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.  
Attorneys for Plaintiff  
1613 Northern Boulevard  
Roslyn, NY 11576  
(516) 625-0105

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS**

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**HAIDER ALI, on behalf of himself and all  
others similarly situated,**

Index No.: 702590/2017

**Plaintiff,**

**COMPLAINT  
JURY TRIAL DEMANDED**

**-against-**

**56 EAST SUNRISE CORP d/b/a DUNKIN  
DONUTS, SUZANNE JANTZEN and  
DIANE MORALES,**

**Defendants.**

-----X  
Plaintiff Haider Ali ("Plaintiff"), on behalf of himself and all others similarly situated, upon personal knowledge as to himself and upon information and belief to other matters, by and through his undersigned counsel, alleges for his Complaint as follows:

**NATURE OF ACTION**

1. Plaintiff brings this action on behalf of himself and all other similarly situated assistant managers, ("Assistant Managers") of Defendant 56 East Sunrise Corp d/b/a Dunkin Donuts ("East Sunrise"), Suzanne Jantzen ("Jantzen") and Diane Morales ("Morales") ("Defendants") who worked more than forty (40) hours in a week and were not paid overtime during the period commencing six (6) years prior to the filing of this action and continuing until such further date as the practices complained of are discontinued (the "Class Period"). The defendants in the action are (i) East Sunrise which by virtue of its management and control over the wages and work of its Assistant Managers is classified as an "employer" under New York Labor Law ("NYLL") §190(3); (ii) Suzanne Jantzen, owner of East Sunrise and other Dunking Donuts who, by virtue of her management and control over the wages and work of her employees is also classified as an "employer" under New York Labor Law ("NYLL") §190(3); and (iii) Diane

Morales, owner of East Sunrise and other Dunkin Donuts who, by virtue of her management and control over the wages and work of her Employees is also classified as an “employer” under New York Labor Law (“NYLL”) §190(3).

2. As particularized below, Defendants have engaged and continue to engage in illegal and improper wage practices. Defendants misclassified Plaintiff and other Assistant Managers as exempt from the overtime laws and failed to pay Plaintiff, and the similarly situated current and former Assistant Managers, for overtime of time and one-half their regular rate of pay for all hours worked over forty (40) in a week.

### **PARTIES**

3. Plaintiff was previously employed by Defendants at one of their Dunkin Donuts locations in Merrick, New York. In addition, Plaintiff also did work at other of Defendants’ Dunkin Donuts locations in East Meadow and a second one in Merrick. All of the various Dunkin Donuts owned by Defendants are alter egos of each other and joint employers of Plaintiff and the other Assistant Managers since they have the same owners and share employees. Plaintiff should have been, throughout his entire employment with Defendants, classified as a covered, non-exempt employee within the meaning of the NYLL §190(2). As such, Plaintiff was entitled to be paid in full for all overtime hours worked, but wasn’t.

4. Defendants maintained control, oversight, and direction over Plaintiff and the similarly situated Assistant Managers regarding time keeping, payroll, and other employment practices applicable to them, and functioned as employers pursuant to the “NYLL.” Defendants Jantzen and Morales own and operate many Dunkin Donuts

locations in New York. Defendants Jantzen and Morales are directly involved in employee issues such as performance and discipline matters.

### **CLASS ACTION ALLEGATIONS**

5. Plaintiff brings this action on his own behalf and as a class action pursuant to CPLR Article 9 of a Class consisting of:

All current and former Assistant Managers who worked for Defendants in the State of New York at any time during the period commencing six (6) years prior to the filing of this action and who (a) were not paid overtime of time and one-half their regular rate of pay for all hours worked over forty (40) in a week; and/or (b) were not provided accurate wage statements and/or notices. (collectively the "Class" or "Class Members").

6. Excluded from the Class are the Defendants' legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the Class Period has had, a controlling interest in Defendants, and all persons who submit timely and otherwise proper requests for exclusion from the Class.

7. During the Class Period, upon information and belief, Defendants employed in excess of forty (40) Assistant Managers and systematically failed and refused to pay them for all compensable hours worked. The Class Members are so numerous that joinder of all members in one proceeding is impracticable.

8. Plaintiff's claims are typical of the claims of other Class Members because the Class consists of Assistant Managers working for Defendants who failed to receive overtime compensation of time and one-half their regular rate of pay for all hours worked over forty (40) in a week. Plaintiff and other Class Members have sustained similar types of damages as a result of Defendants' failure to comply with the NYLL. Plaintiff and other Class Members have been

injured in that they have been uncompensated or under-compensated due to Defendants' common policies, practices, and patterns of conduct.

9. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained counsel competent and experienced in complex class action and wage and hour litigation. There is no conflict between the Plaintiff and Class.

10. Defendants have acted or have refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

11. Common questions of law and fact exist as to the Class that predominate over any questions solely affecting them individually and include, but are not limited to, the following:

- a. Whether Defendants have a policy or practice of misclassifying Assistant Managers as exempt from coverage of the overtime provisions of the NYLL;
- b. Whether Defendants correctly compensated members of the Class for all hours worked in excess of forty (40) per week;
- c. Whether Defendants failed and/or refused to pay Plaintiff and the Class overtime pay of time and one-half their regular rate of pay for all hours worked over forty (40) in a week in violation of the NYLL;
- d. Whether Defendants failed to keep true and accurate time records for all hours worked by their employees as required by New York Labor Law §§ 190 *et seq.* and 650 *et seq.*;
- e. Whether Defendants failed to comply with the posting and notice requirements of the NYLL;

- f. Whether Defendants failed to provide Plaintiff and the Class Members with an accurate statement with every payment of wages, listing accurate gross wages, deductions and accurate net wages as required by New York Labor Law § 195(3);
- g. Whether Defendants engaged in a pattern and/or practice in New York of forcing, coercing, and/or permitting Plaintiff and Class Members to perform work for Defendants' benefit which was not compensated;
- h. Whether Defendants' policy of misclassifying Assistant Managers was done willfully or with reckless disregard of the law;
- i. Whether Defendants should be enjoined from such violations of the NYLL in the future; and
- j. The nature and extent of class-wide injury and the measure of damages for those injuries.

12. Class action treatment is superior to any alternatives for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would entail. Individual Class Members' damages are inadequate to justify the costs of prosecuting their claims in any manner other than a class action. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action, and no superior alternative exists for the fair and efficient adjudication of this controversy. Class Members are readily identifiable from the Defendants' records.

13. Prosecution of separate actions by individual members of the Class would create the risk



of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendants.

14. Without a class action, Defendants would retain the benefit of its wrongdoing and will continue a course of action that will result in further damages to Plaintiff and the Class.

15. Plaintiff intends to send notice to all members of the Class to the extent required by Article 9 of the CPLR.

### FACTS

16. Plaintiff was employed by Defendants from in or around June of 2016 until on or about February 12, 2017. Plaintiff was an Assistant Manager. Plaintiff was paid a salary of \$650.00 a week. During the final week of his employment, Defendants changed Plaintiff to hourly pay. For that last week only, Plaintiff was paid forty (40) hours straight time and ten (10) hours of overtime pay. That week, Plaintiff worked more than forty (40) hours just like in most of the other weeks, except Plaintiff was not paid overtime for the other weeks.

17. Plaintiff worked approximately 47.5 to 57 hours per week. Plaintiff's core job duties did not change during the course of his employment. Plaintiff's job duties at Defendants were of a non-exempt nature and included but were not limited to making coffee, making muffins and donuts, sweeping and mopping floors, helping customers and other similar duties. Defendants' other Assistant Managers performed similar duties. Based upon the job duties of Plaintiff and the other Assistant Managers, Plaintiff and the other Assistant Managers should have been classified as non-exempt and paid overtime of time and one-half for all hours worked over forty (40) in a week.

18. Yet, Defendants had a practice and/or policy whereby they misclassified Plaintiff and other Assistant Managers as exempt and failed to pay overtime of time and one-half their regular rate of

pay to Plaintiff and the Assistant Managers when they worked over forty (40) hours in a week.

19. Plaintiff was sent by Defendants to work at other Dunkin Donuts locations they owned. While at these other locations, Plaintiff performed similar non-exempt duties.

20. In addition, any alleged overtime pay exemption for Plaintiff was lost because Defendants docked Plaintiff's pay for snow days, sick days and to discipline him.

21. Plaintiff typically worked approximately from 12:30 p.m. until 10 p.m. Plaintiff typically worked five (5) to six (6) days a week and worked a total of approximately forty-seven and one-half (47.5) to fifty-seven (57) hours a week.

22. For example, during the week of January 29, 2017 to February 4, 2017 Plaintiff worked fifty-seven (57) hours during the week but was not paid overtime for any hours worked over forty (40).

23. This resulted in Plaintiff working the week of January 29, 2017 to February 4, 2017 seventeen (17) hours over forty (40) hours and he was not paid for those additional seventeen (17) overtime hours worked.

24. In addition, Defendants failed to provide accurate wage statements to Plaintiff and other Assistant Managers.

**AS AND FOR PLAINTIFF'S FIRST CAUSE OF ACTION AGAINST DEFENDANTS  
FOR NONPAYMENT OF OVERTIME IN VIOLATION OF THE NEW YORK  
LABOR LAW  
(On behalf of Plaintiff and the Class)**

25. Plaintiff incorporates paragraphs 1-24 as if fully rewritten herein.

26. The overtime wage provisions of Article 19 of the NYLL and its supporting regulations 12 NYCRR 142-2.2 apply to Defendants and protect Plaintiff and the Class Members.

27. Defendants have failed to pay Plaintiff and the Class Members overtime wages to which

they are entitled under the New York Labor Law and the supporting New York State Department of Labor Regulations.

28. By Defendants' knowing and/or intentional failure to pay Plaintiff and the Class Members overtime wages for hours worked in excess of forty (40) hours in a week, Defendants have willfully violated New York Labor Law §§ 190, *et. seq.*, including but not limit to §§ 190, 191, 193, 198, New York Labor Law §§ 650 *et. seq.*, and the supporting New York State Department of Labor Regulations.

29. Due to Defendants' violations of the NYLL, Plaintiff and the Class Members are entitled to recover from Defendants their unpaid overtime wages, attorneys' fees, costs, and pre-judgment and post-judgment interest.

30. Plaintiff does not seek liquidated damages under the NYLL on behalf of the Class but reserves his right to do so.

**AS AND FOR PLAINTIFF'S SECOND CAUSE OF ACTION AGAINST DEFENDANTS  
FOR FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS IN VIOLATION OF  
THE NEW YORK LABOR LAW  
(On behalf of Plaintiff and the Class)**

31. Plaintiff incorporates paragraphs 1-30 as if fully rewritten herein.

32. Defendants have willfully failed to supply Plaintiff and the Class Members, as required by NYLL, Article 6, § 195(3) with an accurate statement with every payment of wages, listing accurate gross wages, deductions and accurate net wages.

33. Through its knowing or intentional failure to provide Plaintiff and the Class Members with the accurate wage statements required by the NYLL, Defendants have willfully violated NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

34. Due to Defendants' willful violation of NYLL, Article 6, § 195(3), Plaintiff and the Class Members are entitled to damages for each day that Defendants failed to provide Plaintiff and the

Class Members with an accurate wage statement, or a total of five thousand dollars each, reasonable attorneys' fees, costs, and injunctive and declaratory relief, as provided by NYLL, Article 6, § 198(1-d).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of the Class, respectfully seeks the following relief jointly and severally against Defendants:

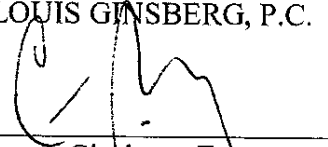
- (a) Certification of the Class as described herein under CPLR Article 9 and appointing Plaintiff as representative of the Class and Plaintiff's counsel as Lead Counsel for the Class;
- (b) An Award for the amount of the Plaintiff's and Class Members' unpaid overtime, and pre- and post-judgment interest as allowed by law;
- (c) An award to Plaintiff and the Class Members of damages for each workday that Defendants failed to provide Plaintiff and the Class members with an accurate wage statement, or a total of \$5,000 per Class Member, as provided by the NYLL;
- (d) An award of injunctive relief as the Court deems necessary and proper to prevent against future violations of New York Labor Law;
- (e) An award to Plaintiff and the Class Members of reasonable attorneys' fees and costs pursuant to New York Labor Law; and
- (f) An award to Plaintiff and the Class Members of such further relief as this Court deems just and proper.

Dated: February 23, 2017  
Roslyn, New York

Respectfully submitted,

THE LAW FIRM OF  
LOUIS GINSBERG, P.C.

By:

A handwritten signature in black ink, appearing to read 'Louis Ginsberg', is written over a horizontal line.

Louis Ginsberg, Esq.  
1613 Northern Boulevard  
Roslyn, N.Y. 11576  
(516) 625-0105 X. 18  
Attorneys for Plaintiff and the  
Putative Class