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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ANNA FORSYTHE individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

728, LLC D/B/A KITTENS CABARET, a  
Washington limited liability company,

Defendant.

No. 20-2-13222-5 SEA

CLASS ACTION COMPLAINT FOR  
DAMAGES.

**I. INTRODUCTORY STATEMENT**

1.1. Plaintiff Anna Forsythe (“Named Plaintiff”), individually and on behalf of all individuals currently or formerly employed by Defendant 728, LLC d/b/a Kittens Cabaret as exotic dancers (collectively, “Plaintiffs”), brings this action for money damages, statutory penalties, and attorney’s fees and costs for violations of the Washington’s Industrial Welfare Act (“IWA”), RCW 49.12, Minimum Wage Act (“MWA”), RCW 49.46, Wage Payment Act (“WPA”), RCW 49.48, and Wage Rebate Act (“WRA”), RCW 49.52, and for other damages as set forth below.

1 **II. PARTIES, JURISDICTION, AND VENUE**

2 2.1. The Superior Court of Washington has jurisdiction over Plaintiffs' claims  
3 pursuant to SMC 14.16.110 and RCW 2.08.010.

4 2.2. Venue in King County is appropriate pursuant to RCW 4.12.020 and .025.

5 2.3. Named Plaintiff Anna Forsythe is an adult resident of Seattle, Washington.  
6

7 2.4. By acting as the named plaintiff in this action, Named Plaintiff hereby affirms  
8 her consent to participate as a class representative on behalf of herself and all Plaintiffs  
9 seeking damages as alleged in this action.

10 2.5. Named Plaintiff was employed by Defendant as an exotic dancer at  
11 Defendant's Kittens Cabaret strip club located at 5800 4<sup>th</sup> Avenue South, Seattle,  
12 Washington 98108.

13 2.6. Defendant 728, LLC d/b/a Kittens Cabaret ("Defendant") is a limited liability  
14 company formed under the laws of the State of Washington and operates as a strip club  
15 featuring female exotic dancers at the physical location 5800 4<sup>th</sup> Avenue South Seattle,  
16 Washington 98108.  
17

18 **III. FACTUAL ALLEGATIONS**

19 3.1. At all relevant times, Defendant operated Kittens Cabaret, a strip club located  
20 within the jurisdictional limits of Seattle, Washington, featuring female exotic dancers.  
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22 3.2. At all relevant times, Plaintiffs were employed by Defendant as exotic  
23 dancers at Defendant's Kittens Cabaret strip club in Seattle, Washington.

24 3.3. During the period of Plaintiffs' employment, the number of shifts Plaintiffs  
25 worked varied from week to week.  
26

1           3.4. During the period of Plaintiffs' employment, the exact number of hours  
2 Plaintiffs worked varied from week to week.

3           3.5. Named Plaintiff was employed by Defendant as an exotic dancer at  
4 Defendant's Kittens Cabaret strip club in Seattle, Washington for the period of at least  
5 November 2016 through about December 2019.

6           3.6. During the period of Named Plaintiff's employment, the exact number of  
7 hours Named Plaintiff worked varied from week to week.

8           3.7. During the period of Named Plaintiff's employment, Named Plaintiff  
9 customarily worked about 3-5 shifts per week for a total of about 30-35 hours per week.

10           3.8. During the period of Named Plaintiff's employment, on average, Named  
11 Plaintiff worked about 4 shifts per week and a total of about 32 hours per week.

12           3.9. Agents on behalf of Defendant had actual knowledge of all hours Plaintiffs  
13 worked each shift through sign in or tip-in sheets, DJ records, and shift-managers monitoring  
14 and supervising Plaintiffs' work duties.

15           3.10. At no time during Plaintiffs' period of employment did Defendant ever pay  
16 Plaintiffs any wages for hours that Plaintiffs worked each week.

17           3.11. Defendant totally failed to pay wages or any kind of compensation to  
18 Plaintiffs for work duties performed.

19           3.12. Defendant misclassified Plaintiffs as independent contractors when Plaintiffs  
20 should have been classified as employees under the laws of Washington State and the City of  
21 Seattle.

22           3.13. Defendant controlled all aspects of the job duties Plaintiffs performed inside  
23 the Kittens Cabaret strip club through employment rules and workplace policies.  
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1           3.14. Defendant controlled the method by which Plaintiffs could earn money at the  
2 Kittens Cabaret strip club by establishing dance orders, setting customer prices on private  
3 and semi-private exotic dances, and setting private and semi-private dance specials and  
4 promotions for customers.

5           3.15. Defendant required Plaintiffs to perform private and semi-private dances  
6 under the pricing guidelines, policies, procedures, and promotions set exclusively by  
7 Defendant.

8           3.16. Defendant hired Plaintiffs and had the ability to discipline, fine, fire, and  
9 adjust Plaintiffs' work schedules.

10           3.17. Defendant, through supervisors and managers, supervised the duties of  
11 Plaintiffs to make sure Plaintiffs' job performance while working inside the Kittens Cabaret  
12 strip club was of sufficient quality.

13           3.18. Defendant conducted initial interviews and vetting procedures for Plaintiffs,  
14 and, Defendant, at its sole discretion, could deny Plaintiffs access or ability to dance and/or  
15 work at the Kittens Cabaret strip club.

16           3.19. Defendant had the right to suspend or send Plaintiffs home and away from the  
17 Kittens Cabaret strip club if Plaintiffs violated any rules or policies or if the club's ownership  
18 or management, at its discretion, did not want Plaintiffs to work at the club.

19           3.20. Plaintiffs were not required to have or possess any requisite certification,  
20 education, or specialized training as a condition of employment with Defendant as exotic  
21 dancers at its Kittens Cabaret strip club.

1           3.21. In addition to failing to pay Plaintiffs wages for hours worked, Defendant  
2 required Plaintiffs to pay the club or its ownership or management a house fee or kickback  
3 that ranged from \$65.00 or more for each shift Plaintiffs worked.

4           3.22. Without justification, Defendant regularly and customarily kept and/or  
5 assigned to management tips and gratuities Plaintiffs received from customers.

6           3.23. Without justification, Defendant regularly and customarily kept and/or  
7 assigned to management a portion of the gratuities Plaintiffs received from customers for  
8 performing private and semi-private dances.

9           3.24. Without justification, Defendant imposed fees and fines against Plaintiffs for  
10 rule violations such as a \$65.00 charge for leaving a shift early and a \$100.00 missed dance  
11 fee.  
12

13           3.25. On information and belief, at all times relevant to this action, Defendant knew  
14 or should have known that Plaintiffs at Defendant's Kittens Cabaret were employees and not  
15 independent contractors and were owed minimum wage compensation and other benefits  
16 under the Washington State and City of Seattle wage and hour laws.

17           3.26. On information and belief, at all times relevant to this action, Defendant  
18 knew or should have known that managers of the Kittens Cabaret strip club unlawfully  
19 withheld or assigned tips Plaintiffs received from customers, and unlawfully charged  
20 Plaintiffs kickbacks, fines, and surcharges during their employment period.  
21

22           3.27. While employed, Plaintiffs regularly and customarily worked daily shifts in  
23 excess of four (4) hours.  
24  
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1 3.28. While employed, Defendant failed to provide Plaintiffs with rest periods of  
2 not less than ten (10) minutes, on Defendant's time, for each four (4) hours of working time  
3 and failed to provide additional compensation to Plaintiffs for missed rest breaks.

4 3.29. While employed, Plaintiffs regularly and customarily worked daily shifts in  
5 excess of five (5) hours in length.

6 3.30. While employed, Plaintiffs often worked shifts or double shifts in excess of  
7 ten (10) hours in length.

8 3.31. While employed, Defendant failed to provide Plaintiffs with a thirty (30)  
9 minute meal period for work shifts greater than five (5) hours in length and an additional  
10 thirty (30) minute meal period for shifts greater than ten (10) hours in length and failed to  
11 provide additional compensation to Plaintiffs for missed meal periods.

12 3.32. While employed, Defendant failed to provide Plaintiffs with one (1) hour of  
13 paid sick and safe leave for every forty (40) hours worked, and refused to notify or permit  
14 Plaintiffs to take and/or use one (1) hour of sick and safe leave for every forty (40) hours  
15 worked.

16 3.33. Defendant has willfully violated the statutory rights of Plaintiffs, resulting in  
17 damages to Plaintiffs in the form of unpaid straight-time wages and unpaid overtime wages,  
18 in addition to exemplary damages, attorneys' fees and costs, prejudgment interest, and other  
19 damages permitted by applicable law.

#### 20 **IV. CLASS ACTION ALLEGATIONS**

21 4.1. Named Plaintiff brings each Count of the instant Complaint as a class action  
22 pursuant to CR 23(a) and (b)(3), on behalf of herself and all Plaintiffs.

1           4.2. Pursuit of this action as a class will provide the most efficient mechanism for  
2 adjudicating the claims of Plaintiffs.

3           4.3. Named Plaintiff seek to certify a class consisting of all individuals who  
4 worked as exotic dancers at Defendant's Kittens Cabaret strip club and who were classified  
5 by Defendant as independent contractors during the period three years prior to the filing of  
6 this Complaint through the date of judgment in this action.

7           4.4. Numerosity: The proposed class is so numerous that the joinder of all such  
8 persons is impracticable, and the disposition of their claims as a class will benefit the parties  
9 and the Court. While the exact number of class members is unknown to Named Plaintiff at  
10 this time, upon information and belief, the class comprises at least one hundred (100)  
11 individuals.

12           4.5. Common Questions Predominate: There is a well-defined commonality of  
13 interest in the questions of law and fact involving and affecting the proposed class, and these  
14 common questions of law and fact predominate over any questions affecting members of the  
15 proposed class individually, in that all Plaintiffs have been harmed by Defendant's  
16 misclassification of Plaintiffs as independent contractors.

17           4.6. The common questions of law and fact include, but are not limited to, the  
18 following:

19           (i) Whether Plaintiffs were Defendant's employees as a matter of economic  
20 reality under the law of Washington State;

21           (ii) Whether Defendant paid Plaintiffs wages at hourly rates at least equal to the  
22 rates required under the Washington Minimum Wage Act for each hour worked;  
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1 (iii) Whether Defendant paid Plaintiffs wages at hourly rates at least equal to the  
2 rates required under the City of Seattle Municipal Code for each hour worked;

3 (iv) Whether the per-shift deductions and/or kickbacks in the form of a house fee  
4 Defendant charged Plaintiffs as a condition of working each shift violated Plaintiffs' rights  
5 under RCW 49.52.050, RCW 49.48.010, WAC 296-126-028, and the law of Washington  
6 State;

7 (v) Whether fees, fines, and/or deductions Defendants charged Plaintiffs for  
8 violation of club rules, guidelines, procedures, and/or policies violated Plaintiffs' rights under  
9 RCW 49.52.050, RCW 49.48.010, WAC 296-126-028, and the law of Washington State;

10 (vi) Whether Defendant's practice of requiring Plaintiffs to pay Defendant a  
11 portion of the money received for performing private and/or semi-private dances violated  
12 Plaintiffs' rights under RCW 49.46.020, RCW 49.52.050, RCW 49.48.010, WAC 296-126-  
13 028, and the law of Washington State;

14 (vii) Whether Defendant's practice of requiring Plaintiffs to pay Defendant a  
15 portion of the tips or gratuities Plaintiffs received from customers violated Plaintiffs' rights  
16 under RCW 49.46.020 and the law of Washington State;

17 (viii) Whether Defendant's failure to provide rest periods of not less than ten (10)  
18 minutes, on Defendant's time, for each four (4) hours of working time to Plaintiffs violated  
19 Plaintiffs' rights under RCW 49.12, WAC 296-126-092, and the law of Washington State;

20 (ix) Whether Defendant's failure to provide a thirty (30) minute meal period for  
21 work shifts greater than five (5) hours in length and an additional thirty (30) minute meal  
22 period for shifts greater than ten (10) hours in length to Plaintiffs violated Plaintiffs' rights  
23 under RCW 49.12, WAC 296-126-092, and the law of Washington State; and/or  
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1 (x) Whether Defendant's failure to provide one (1) hour of sick leave to Plaintiffs  
2 for every forty (40) hours Plaintiffs worked violated Plaintiffs' rights under the Seattle  
3 Municipal Code and the law of Washington State.

4 4.7. Typicality: The claims of Named Plaintiff are typical of the claims of each  
5 proposed class member, and the relief sought is typical of the relief which would be sought  
6 by each member of the class in separate actions.  
7

8 4.8. All Plaintiffs were subject to the same classification and compensation  
9 practices of Defendant, as alleged herein, of failing to pay employees all of their earned and  
10 accrued wages under the law of Washington State.

11 4.9. Defendant's compensation policies and practices affected all putative class  
12 members similarly.  
13

14 4.10. Named Plaintiff and the Plaintiffs sustained similar losses, injuries, and  
15 damages arising from the same unlawful policies, practices, and procedures.

16 4.11. Adequacy of Representation: Named Plaintiff is able to fairly and adequately  
17 protect the interests of all members of the proposed class, and there are no known conflicts of  
18 interest between Named Plaintiff and members of the proposed class. Named Plaintiff has  
19 retained counsel who is experienced and competent in both wage and hour law and complex  
20 class action litigation.  
21

22 4.12. Superiority: A class action is superior to other available means for the fair and  
23 efficient adjudication of this controversy.

24 4.13. Individual joinder of all class members is impracticable.

25 4.14. Class action treatment will permit a large number of similarly situated persons  
26 to prosecute their common claims in a single forum simultaneously, efficiently, and without

1 the unnecessary duplication of effort and expense that numerous individual actions engender.  
2 Because the losses, injuries and damages suffered by each of the individual class members  
3 may be small for some in the sense pertinent to the class action analysis, the expenses and  
4 burden of individual litigation would make it extremely difficult or impossible for the  
5 individual class members to redress the wrongs done to them.

6  
7 4.15. Important public interests will be served by addressing the matter as a class  
8 action. The cost to the court system and the public for the adjudication of individual litigation  
9 and claims would be substantially greater than if the claims are treated as a class action.

10 4.16. Prosecution of separate actions by individual members of the proposed class  
11 would create a risk of inconsistent and/or varying adjudications with respect to the individual  
12 members of the class, establishing incompatible standards of conduct for Defendant, and  
13 resulting in the impairment of class members' rights and the disposition of their interests  
14 through actions to which they are not parties.

15  
16 4.17. The issues in this action can be decided by means of common, class-wide  
17 proof.

18 4.18. Public Policy Considerations: Defendant's misclassification of Plaintiffs  
19 violated their workplace and employment rights under the laws of Washington State and the  
20 City of Seattle. Just as current employees are often afraid to assert their rights out of fear of  
21 direct or indirect retaliation, former employees may also be fearful of bringing claims  
22 because doing so can harm their employment, future employment, and future efforts to  
23 secure employment. Class action lawsuits provide class members who are not named in the  
24 Complaint a degree of anonymity, which allows for vindication of their rights while  
25 eliminating or reducing these risks.  
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**V. CAUSES OF ACTION**

**COUNT I**

**CLASSWIDE FAILURE TO PAY FOR ALL HOURS WORKED IN VIOLATION OF  
THE WASHINGTON MINIMUM WAGE ACT AND THE SEATTLE MUNICIPAL  
CODE**

5.1. Plaintiffs restate and reallege the allegations set forth in all preceding paragraphs.

5.2. At all times, Defendant misclassified Plaintiffs as independent contractors when Plaintiffs should have been classified as employees.

5.3. At all times, Defendant failed to pay Plaintiffs any wages for hours worked.

5.4. Defendant's failure to pay Plaintiffs wages for hours worked resulted in a failure by Defendant to pay Plaintiffs wages at least equal to the Washington State and City of Seattle Minimum Wage for each hour worked and wages of at least time and a half the applicable minimum wage rate for each hour worked over forty (40) in a week and is in violation of Plaintiffs' right to receive wages under the MWA, RCW 49.46.020 and .130, and the Seattle Municipal Wage Ordinance, SMC 14.19.

5.5. As a result of Defendant's acts and omissions, Plaintiffs have been damaged in amounts as will be proven at trial.

**COUNT II**

**CLASSWIDE ILLEGAL KICKBACKS AND WAGE AND TIP DEDUCTIONS**

5.6. Plaintiffs restate and reallege the allegations set forth in all preceding paragraphs.

5.7. At all times, Defendant implemented and carried out an unlawful payroll practice under which it (i) charged Plaintiffs a mandatory per-shift kickback or surcharge as a condition of working each shift; (ii) deducted and assigned a portion of the gratuity Plaintiffs

1 received for performing each private and/or semi-private dance for Defendant's customers;  
2 (iii) deducted and assigned a portion of the gratuities Plaintiffs received from Defendant's  
3 customers for dancing on stage and/or interacting with customers as a standard and  
4 mandatory per-shift practice; and (iv) deducted and assigned a portion of the gratuities  
5 Plaintiffs received from Defendant's customers as a penalty for violating club rules, policies,  
6 guidelines, and/or procedures.  
7

8 5.8. These policies and practices violate the anti-kickback, anti-withholding, and  
9 anti-deduction provisions of RCW 49.52.050, RCW 49.48.010, and WAC 296-126-028, and  
10 the provisions of the MWA, RCW 49.46.020, requiring an employer to pay all tips,  
11 gratuities, and service charges to its employees, except under circumstances not present here.  
12

13 5.9. As a result of Defendant's acts and omissions, Plaintiffs have been damaged  
14 in amounts as will be proven at trial.

15 **COUNT III**  
16 **CLASSWIDE FAILURE TO PROVIDE REST BREAKS**  
**IN VIOLATION OF THE WASHINGTON INDUSTRIAL WELFARE ACT**

17 5.10. Plaintiffs restate and reallege the allegations set forth in all preceding  
18 paragraphs.

19 5.11. The Washington Industrial Welfare Act, RCW 49.12, and its implementing  
20 regulation, WAC 296-126-092, require employers to provide a rest break of not less than ten  
21 (10) minutes, on the employer's time, for each four hours of working time.  
22

23 5.12. Defendant has violated the IWA and its implementing regulation by failing to  
24 provide Plaintiffs a ten-minute paid rest break for every four hours worked, by creating work  
25 schedules and conditions of work that discourage paid rest breaks, and by failing to provide  
26 additional compensation for missed rest breaks.



1 Plaintiffs to use that leave when eligible constitutes a violation of RCW 49.46.210 and SMC  
2 14.16.

3 5.20. As a result of Defendant's acts and omissions, Plaintiffs have been damaged  
4 in amounts as will be proven at trial.

5  
6 **COUNT VI**  
7 **CLASSWIDE WILLFUL WITHHOLDING OF WAGES**  
8 **IN VIOLATION OF THE WASHINGTON WAGE REBATE ACT AND THE**  
9 **SEATTLE MUNICIPAL CODE**

10 5.21. Plaintiffs restate and reallege the allegations set forth in all preceding  
11 paragraphs.

12 5.22. By the foregoing, Defendant's actions and omissions are presumed to be  
13 willful pursuant to RCW 49.52.080 and to constitute willful withholding of wages due in  
14 violation of RCW 49.52.050 and 070.

15 5.23. As a result of Defendant's acts and omissions, Plaintiffs have been damaged  
16 in amounts as will be proven at trial.

17 **VI. PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs request this Court enter an order against Defendant  
19 granting the following relief:

- 20 A. Certification of this case as a class action pursuant to CR 23(a) and (b)(3);  
21 B. Damages for unpaid wages, including missed rest breaks and meal periods, in  
22 amounts to be proven at trial;  
23 C. Damages for illegally rebated and/or converted kickbacks, surcharges, and  
24 tips in amounts to be proven at trial.  
25 D. Exemplary damages under RCW 49.52.070, SMC 14.19.110, and SMC  
26 14.16.110 in amounts to be proven at trial;

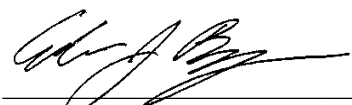
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E. Prejudgment interest; and

F. An award of attorney’s fees and litigation costs and expenses under RCW 49.46.090, RCW 49.48.030, RCW 49.52.070, and SMC 14.19.110 and 14.16.110 in an amount to be submitted and proven by post-judgment petition.

DATED this 28th day of August, 2020.

Respectfully submitted,



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