

3UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JUNE MURPHY, individually and behalf  
of all other similarly situated persons,  
  
Plaintiffs,  
  
-against-

**ECF CASE**  
  
**DEFENDANTS' ANSWER**  
**AFFIRMATIVE DEFENSES**  
**AND DEFENSES**

NORTHERN DUTCHESS PARAMEDICS, INC.,  
and EDWARD B. MURRAY,  
  
Defendants.

11-Civ-5661 (CS)

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Defendants, Northern Dutchess Paramedics, Inc. and Edward B. Murray, by their attorneys, Gellert & Klein, P.C., as and for their Answer and Affirmative Defenses and Defenses to Plaintiff's Complaint, state the following:

**COLLECTIVE & CLASS-ACTION COMPLAINT**

1. Admit the allegations contained in paragraph "1."
2. Admit the allegations contained in paragraph "2."
3. Deny the allegations contained in paragraph "3."
4. Neither admit nor deny the allegations contained in paragraph "4," but to the

extent that a response is required Defendants deny any violation of law on their part.

**JURISDICTION AND VENUE**

5. Admit that the Court has subject-matter jurisdiction with respect to the allegations contained in paragraph "5."

6. The allegations contained in paragraph "6" call for a legal conclusion, and Defendants defer to the discretion of the Court.

7. Deny knowledge or information sufficient to form a belief as to the place of residence of Plaintiff with respect to the allegations contained in paragraph "7."

8. The allegations contained in paragraph “8” call for a legal conclusion, and Defendants defer to the discretion of the Court.

**PARTIES**

**A. Plaintiff**

9. Deny knowledge or information sufficient to form a belief as to allegations contained in paragraph “9,” but admit that Plaintiff was employed by Defendant Northern Dutchess Paramedics, Inc.

10. Neither admit nor deny the characterization of Plaintiff’s action contained in paragraph “10,” but to the extent a response is required, deny the violation of any law on the part of Defendants.

11. Neither admit nor deny the characterization of Plaintiff’s action contained in paragraph “11,” but to the extent a response is required, deny the violation of any law on the part of Defendants.

12. Admit the allegations contained in paragraph “12.”

**B. Represented Parties under FLSA**

13. The allegations contained in paragraph “13” call for a legal conclusion, and Defendants defer to the discretion of the Court.

14. Neither admit nor deny the allegations contained in paragraph “14,” but to the extent that a response is required Defendants deny any violation of law on their part.

**C. Class-Action Allegation**

15. Neither admit nor deny the allegations contained in paragraph “15,” but to the extent that a response is required Defendants deny any violation of law on their part.

16. Neither admit nor deny the allegations contained in paragraph "16," but to the extent that a response is required Defendants deny any violation of law on their part.

17. The allegations contained in paragraph "17" call for a legal conclusion, and Defendants defer to the discretion of the Court.

18. Deny the allegations contained in paragraph "18."

19. Deny the allegations contained in paragraph "19."

20. The allegations contained in paragraph "20" call for a legal conclusion, and Defendants defer to the discretion of the Court.

21. Neither admit nor deny the allegations contained in paragraph "21," but to the extent that a response is required Defendants deny any violation of law on their part.

22. Neither admit nor deny the allegations contained in paragraph "22," but to the extent that a response is required Defendants deny any violation of law on their part.

23. Deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph "23."

24. Neither admit nor deny the allegations contained in paragraph "24," but to the extent that a response is required Defendants deny any violation of law on their part.

**D. Defendants**

25. Admit the allegations contained in paragraph "25."

26. Admit the allegations contained in paragraph "26."

27. Admit the allegations contained in paragraph "27."

28. Admit the allegations contained in paragraph "28."

29. Deny the allegations contained in paragraph "29."

30. Deny the allegations contained in paragraph "30."

31. The allegations contained in paragraph “31” call for a legal conclusion, and Defendants defer to the discretion of the Court.

32. Deny the allegations contained in paragraph “32.”

**FACTS**

33. Deny the allegations contained in paragraph “33.”

34. Deny the allegations contained in paragraph “34.”

35. Admit the allegations contained in paragraph “35.”

36. Admit the allegations contained in paragraph “36.”

37. Deny the allegations contained in paragraph “37.”

38. Admit the allegations contained in paragraph “38.”

39. Admit the allegations contained in paragraph “39.”

40. Deny the allegations contained in paragraph “40.”

41. Deny the allegations contained in paragraph “41.”

42. Admit the allegations contained in paragraph “42.”

43. Deny the allegations contained in paragraph “43.”

44. Deny the allegations contained in paragraph “44.”

45. Deny the allegations contained in paragraph “45.”

**FIRST CAUSE OF ACTION  
(FAIR LABOR STANDARDS ACT)**

46. Deny the allegations contained in paragraph “46.”

47. Deny the allegations contained in paragraph “47.”

48. Deny the allegations contained in paragraph “48.”



**SECOND CAUSE OF ACTION  
(NEW YORK LABOR LAW)**

49. Repeat and reallege all prior responses as if fully set forth herein with respect to the allegations contained in paragraph “49.”
50. Deny the allegations contained in paragraph “50.”
51. Deny the allegations contained in paragraph “51.”
52. Deny the allegations contained in paragraph “52.”
53. Deny the allegations contained in paragraph “53.”
54. Deny the allegations contained in paragraph “54.”

**AFFIRMATIVE DEFENSES AND DEFENSES**

**AS AND FOR A FIRST DEFENSE**

55. The Complaint fails to state a cause of action upon which relief can be granted.

**AS AND FOR A SECOND DEFENSE**

56. Defendants are not engaged in the hospitality industry.

**AS AND FOR A THIRD DEFENSE**

57. At all times concerned in the Complaint, Defendants abided by all applicable labor and employment statutes, rules and regulations, including, but not limited to, the Fair Labor Standards Act.

**AS AND FOR A FOURTH DEFENSE**

58. Plaintiffs received all compensation to which they were legally entitled during their employ with Northern Dutchess Paramedics, Inc.

**AS AND FOR A FIFTH DEFENSE**

59. Defendants specifically reserve the right to assert any additional defenses as they become known through discovery or otherwise.

**WHEREFORE**, it is respectfully requested that the Complaint be dismissed in its entirety, with prejudice and without any award of damages to Plaintiff, that Defendants be entitled to recover its costs and attorneys' fees incurred in the defense of this action, together with such other relief that the Court deems just and proper.

Respectfully submitted,

GELLERT & KLEIN, P.C.

By: 

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