

2021-22

Wisconsin High School
Mock Trial Tournament

Case Materials

Gabi Stone

vs.

The Donut Whole, LLC

Prosecution Witnesses:

Gabi Stone

Bryce Price

Kendall Harrison

Defense Witnesses:

Spencer Harrison

Lou Zuccherro

Reese Harrison

Stipulations/Pre-Trial Rulings

1. All of the exhibits are authentic and the authenticity of an exhibit is never at issue. All witnesses have authenticated exhibits containing their initials and/or names, and the accuracy of the dates thereon. Authentic exhibits are not necessarily admissible at trial.
2. All witness affidavits have been properly signed and notarized. The electronic signatures on each affidavit's signature line and notary block are to be treated as authentic signatures. This stipulation does not apply to exhibits. Names of the notary publics are not relevant to the presentation of the case. Each witness has reviewed their affidavit the morning of trial, attested that it was true and accurate, and attested that there was nothing that they had forgotten or wanted to add.
3. Each witness affidavit/report is intended to be gender-neutral and should be interpreted as such. All witness affidavits use "they" as a singular pronoun, in order to be gender neutral. Both the Chicago Manual of Style and the Associated Press Stylebook now recognize "they" as an acceptable singular gender-neutral pronoun. Attorneys may (but are not required to) bring this stipulation to the attention of judges in pretrial matters if their teams wish to use "they" as a singular pronoun. In any event, judges are instructed not to downgrade scores due to the use of "they" as a singular, gender-neutral pronoun.
4. This case involves an individual's claim against their former employer. Usually, in order to make an employment claim in circuit court, an individual must take certain steps to resolve their case through "administrative" channels before the case can be heard in court. For purposes of this case, assume all administrative remedies have been exhausted.
5. A worker's compensation claim is the type of claim a person makes to seek compensation and other remedies when they are injured in the course of their employment. Worker's compensation claims are an entirely different matter pursued through different "administrative" channels—separate and apart from employment matters. In this case, any claims arising from any physical injury suffered by any individual on the job, not due to any alleged adverse employment action, would be handled separately, and would not be a part of this case. *However*, it is possible to bring a civil lawsuit against an employer for "unreasonable refusal to rehire" if a person is terminated as a result of a work-related injury.
6. In addition to the claims brought in the Amended Complaint attached hereto, the Plaintiff's original Complaint brought claims against their employer alleging they were subjected to adverse employment action because Plaintiff was a suspected whistleblower, and because Plaintiff was injured on the job and made a worker's compensation claim. The Defendant filed a Motion for Summary Judgment at an earlier stage of this case, and the Court dismissed all claims except the pending claim referenced in the Amended Complaint. However, in the same ruling, the Court found as a matter of law that Plaintiff's diabetes qualifies as a disability for purposes of the Americans with Disability Act, which claims were permitted to proceed to trial.
7. This case is bifurcated. The underlying claim is being tried in this case; if the Plaintiff is successful, damages will be tried at a later date.

8. In Motions *in Limine*, the Court was asked to rule on whether all four Donut Whole managerial staff members expected to testify at trial would qualify as “party opponents” for purposes of Mock Trial Rule of Evidence 801(4)(b). The Court assessed the position of each such individual and determined that each would qualify as “party opponents.”
9. In Motions *in Limine*, Plaintiff asked the Court to impose a spoliation sanction upon Defendant for failing to preserve a video of Plaintiff allegedly violating a work rule, when that violation was alleged to have formed all or part of the basis for Plaintiff’s termination. Defendant argued that the video file was destroyed according to their usual surveillance file retention policies, and not as a result of any wrongdoing. The Court denied Plaintiff’s request for a monetary sanction or for a directed verdict in favor of Plaintiff, but said it would issue an adverse inference instruction if the evidence regarding the failure to preserve the video is received into evidence. That instruction, included in these materials, should only be used if said evidence is received into evidence.
10. Any individuals named in this problem but not identified as witnesses are *not* unavailable witnesses: the attorneys handling the case simply chose not to call them as witnesses at trial.
11. This problem refers to “Nudge,” a social media platform. Much like Clearwater, Wisconsin is a fictitious city in which mock trial problems take place, “Nudge” will now be the fictitious social media platform that will be used here and in future problems as a part of the same mock trial universe.

Disclaimer

The 2021-22 mock trial case is a hypothetical case. All names used in the mock trial case were created to be gender-neutral. Any similarity to an actual event or to the name of an actual person is strictly coincidental.

However, there is a noteworthy story behind select witness names this year. During last year’s virtual competition, some teams and coaches participated from separate locations. That was the case for Madison West, whose main attorney coach took part in every trial during State, with his video off. On Sunday, after the finalists were announced, the team gathered by video to congratulate each other on a job well done. Their coach turned his camera on for the first time all weekend, and his students saw him in a hospital bed. Unbeknownst to the team, he had been hospitalized and had coached all weekend with his video off, so that his students would not see him and become worried and distracted. The name of that coach is Kendall Harrison. His daughter’s name is Spencer.

The characters so named have not been intended to in any way resemble either namesake: the Casewriting Committee simply thought it appropriate to honor the dedication of a coach, and what that dedication shows about the types of people who make this program work.

Exhibits

Please note that exhibits are pre-marked. The pre-marking of exhibits is solely a convenience. It is not intended to suggest the order in which exhibits should be used nor is it intended to suggest anything about their admissibility. In addition, the pre-marking of exhibits is not intended to suggest that all exhibits must or should be used.

GABI STONE

Plaintiff,

Case No. 21-CV-1234

v.

THE DONUT WHOLE, LLC

Defendant.

AMENDED COMPLAINT

Gabi Stone Complains against the defendant, The Donut Whole, LLC, as follows:

INTRODUCTION

1. This is a case brought under Title 1 of the Americans with Disabilities Act, seeking damages and equitable relief due to the unlawful termination of Gabi Stone by their employer, The Donut Whole, LLC.

JURISDICTION AND VENUE

2. This court has jurisdiction per Wis. Stat. § 753.03.
3. Venue is proper in the Clearwater County Circuit Court per Wis. Stat. § 801.50.
4. The plaintiff has exhausted all administrative remedies through the E.E.O.C. and received a Right to Sue letter on March 1, 2021.

PARTIES

5. Gabi Stone was a sophomore at UW-Clearwater, majoring in business with a concentration in restaurant management. Gabi was brought up in the restaurant business, having worked in kitchens in their parents' restaurants throughout childhood and adolescence. Before leaving for college, Gabi managed a 1950's themed diner.

6. At six-years old, Gabi was diagnosed with Type-1diabetes, a chronic condition in which the pancreas produces little or no insulin. Insulin helps regulate blood sugar by allowing sugar to enter cells to be used as energy. Diabetes is an impairment that substantially affects Gabi's major life activity of absorbing sugars into cells to be used as energy. Gabi manages their diabetes

by wearing a continuous glucose monitor (CGM) which alerts Gabi when their blood sugar is too high or too low. For the 15 years Gabi has lived with this condition, Gabi has managed their blood sugar levels by following medical advice and eating a balanced diet.

7. The Donut Whole, LLC, is a corporation domiciled in Clearwater, Wisconsin. It is a bakery and wholesale donut business. It is an employer employing more than 15 people.

FACTS

8. Gabi was hired as an entry-level employee at The Donut Whole, LLC in Clearwater, Wisconsin around August of 2018. Working at The Donut Whole was a dream come true for Gabi, because all entry level employees were trained in all areas of the business, including assisting with baking, working at the cashier, preparing take-out orders, planning orders for high-end catering companies, and monitoring inventory.

9. Gabi was qualified to perform all the functions of an entry-level employee at the Donut Whole, LLC, with or without an accommodation.

10. Gabi was a model employee who worked hard, put in long hours, and kept a positive attitude. Spencer Harrison, the Donut Whole's president, described Gabi as a "smart, highly competent, extremely motivated" employee. Gabi was well on their way to being crowned a "Donut Head," which is an honor given to driven employees who were team players and exhibited excellence as restauraners.

11. After working at The Donut Whole for about a year, Gabi was frequently asked to work overtime hours. It got to the point where Gabi was asked to work overtime hours after almost every eight-hour shift. The overtime work, which happened two or three days per week, started cutting into Gabi's school work time, and it started affecting Gabi's health, making it more and more difficult to get meals in to manage glucose levels. Gabi started eating donuts in place of proper meals.

12. On April 9, 2020, Spencer Harrison demanded Gabi work overtime hours. Gabi had already worked from 6:00 a.m. to 2:30 p.m. and had been up half the night trying to complete a big class project.

13. About half-way through the overtime shift, Gabi could feel their body start to shut down but was not able to take a break because it was so busy. Gabi knew they should leave and go home to eat lunch and rest but felt they could not. Gabi looked terrible and was dragging. Gabi was scared that if they left during the overtime shift, they would be fired.

14. At some point, Gabi's body gave out, and Gabi collapsed over the donut conveyer belt. Gabi was rushed to the hospital, where they stayed overnight for observation and recovery.

15. Gabi quickly recovered from diabetic shock and diligently showed up for work the following day. Gabi met with the head chef of the Donut Whole, Lou Zuccherro, before clocking in for work. Gabi explained their collapse was due to diabetes.

16. After Gabi's medical incident and disclosure of diabetes, The Donut Whole human resources director referred to Gabi as "a hazard in the workplace," and the company's president remarked the management team was all anxious that Gabi would have another diabetic episode.

17. Within days of returning to work, Gabi was treated differently than they had been treated before the incident. The Harrison siblings largely avoided Gabi, making little conversation, and not even saying “good morning.” A few days after Gabi returned to work, they were written up for an alleged work rule violation the first time since starting to work at The Donut Whole.

18. Over the next few weeks, Gabi was written up three times for incidents that did not violate work rules. Gabi was a few minutes late once, but it was due to a professor holding all students back for five minutes. Gabi was then written up for giving a co-worker a high-five. Gabi was finally terminated for an incident that didn’t even happen. It was alleged Gabi put their finger into donut glaze. Gabi never touched the donut glaze and was wrongly accused, and Defendant destroyed the video that would have allowed Gabi to prove it.

19. Without warning, Gabi was terminated on May 28, 2020.

20. The Donut Whole has never terminated a non-disabled employee for being five minutes late due to a college class that ran late. The Donut Whole has never terminated a non-disabled employee for congratulating another employee with a high five. The Donut Whole has never fabricated a false accusation of improper food safety against a non-disabled employee.

21. Gabi was devastated. Gabi had to drop out of school because they were unable to pay for tuition and living expenses. Gabi suffered emotional pain and suffering, depression, feelings of worthlessness and hopelessness.

LEGAL CLAIM

22. Title I of the ADAAA states, “No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.”

23. Gabi is a qualified individual with a disability as defined by the ADAAA, who is able to perform all their job duties with or without an accommodation.

24. The Donut Whole, LLC is a covered entity as defined by the ADAAA.

25. The Donut Whole, LLC violated the ADAAA when it terminated the Plaintiff’s employment for reasons it would not have terminated a non-disabled employee.

26. The Donut Whole, LLC violated the ADAAA when it terminated the Plaintiff’s employment because they are a person with a disability.

27. Gabi Stone has suffered extreme financial and emotional hardship as a result of The Donut Whole’s unlawful actions.

PRAYER FOR RELIEF

1. Award compensatory damages for emotional pain and suffering.

2. Award back pay and front pay.

3. Award attorneys fees.
4. Award any other relief the court deems just and equitable.

Dated: April 1, 2021.

DISABILITY RIGHTS OF CLEARWATER

Signed electronically by:

Abby Roland Smith

State Bar No: 3067864

86 Main Street

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Attorneys for Plaintiff

GABI STONE

Plaintiff,

Case No. 21-CV-1234

v.

THE DONUT WHOLE, LLC

Defendant.

JURY INSTRUCTIONS

AMERICANS WITH DISABILITIES ACT

Plaintiff has brought this lawsuit under a federal law called the Americans with Disabilities Act, which is often referred to by its initials, “ADA” or “ADAAA,” which refer to the Americans with Disabilities Act Amendments Act of 2008. Under the ADA, it is illegal for an employer to discriminate against a person with a disability if that person is qualified to do the essential functions of their job and the employer is aware of their limitations.

In this case, Plaintiff claims that Defendant discriminated against them by firing them because they had a disability.

Defendant denies that it discriminated against Plaintiff and says they terminated Plaintiff’s employment for work rule violations.

To succeed in this case, Plaintiff must prove four things by a preponderance of the evidence:

1. The plaintiff had a disability. This question is answered “yes” by the Court, which made a pre-trial finding that Gabi Stone had a disability: diabetes.
2. Plaintiff was qualified to perform the job. This question is answered “yes” by the Court upon stipulation of the parties.
3. Defendant terminated the plaintiff’s employment. This question is answered “yes” by the Court upon stipulation of the parties.
4. Defendant would not have terminated the plaintiff’s employment if the plaintiff had not had a disability, but everything else had been the same.

Your job as the jury is to weigh the evidence and determine whether the plaintiff was terminated because of their disability or terminated because of some other reason.

BURDEN OF PROOF: PREPONDERANCE OF THE EVIDENCE

Certain questions in the verdict ask that you answer the questions “yes” or “no”. The party who wants you to answer the questions “yes” has the burden of proof as to those questions. This burden is to satisfy you by the greater weight of the credible evidence, to a reasonable certainty, that “yes” should be your answer to the verdict questions.

The greater weight of the credible evidence means that the evidence in favor of a “yes” answer has more convincing power than the evidence opposed to it. Credible evidence means evidence you believe in light of reason and common sense.

“Reasonable certainty” means that you are persuaded based upon a rational consideration of the evidence. Absolute certainty is not required, but a guess is not enough to meet the burden of proof.

CREDIBILITY OF WITNESSES

It is the duty of the jury to scrutinize and to weigh the testimony of witnesses and to determine the effect of the evidence as a whole. You are the sole judges of the credibility, that is, the believability, of the witnesses and of the weight to be given to their testimony.

In determining the credibility of each witness and the weight you give to the testimony of each witness, consider these factors:

- whether the witness has an interest or lack of interest in the result of this trial;
- the witness' conduct, appearance, and demeanor on the witness stand;
- the clearness or lack of clearness of the witness' recollections;
- the opportunity the witness had for observing and for knowing the matters the witness testified about;
- the reasonableness of the witness' testimony;
- the apparent intelligence of the witness;
- bias or prejudice, if any has been shown;
- possible motives for falsifying testimony; and
- all other facts and circumstances during the trial which tend either to support or to discredit the testimony.

Then give to the testimony of each witness the weight you believe it should receive.

There is no magic way for you to evaluate the testimony; instead, you should use your common sense and experience. In everyday life, you determine for yourselves the reliability of things people say to you. You should do the same thing here.

SPOILIATION

Evidence has been received in this case that video footage showing Gabi Stone violating a work rule once existed, but that Defendant did not preserve this video.

It is the duty of each party to preserve evidence essential to the claims at issue in this case. If you determine that Defendant breached this duty and that the video was essential evidence to the claims at issue in this case, then you may choose to infer from the loss or destruction of the video, while it was under Defendant's exclusive control, that the video contained information unfavorable to Defendant.

STATE OF WISCONSIN

Plaintiff,

-vs-

Case No: 2020-CF-56

DORIAN GREY

Defendant.

SPECIAL VERDICT

We, the jury, find as-follows:

1. Did the plaintiff, Gabi Stone, have a disability?

ANSWER: YES (Answered by the Court)

2. Was the plaintiff, Gabi Stone, qualified to perform their job?

ANSWER: YES (Answered by the Court)

3. Did the defendant, The Donut Whole, LLC, terminate the employment of the plaintiff, Gabi Stone?

ANSWER: YES (Answered by the Court)

4. Would the defendant, The Donut Whole, LLC, have terminated the employment of the plaintiff, Gabi Stone, if Gabi Stone had not had a disability, but everything else had been the same?

ANSWER: YES or NO
(circle one)

Jury Foreperson

AFFIDAVIT OF GABI STONE

Gabi Stone, first being duly sworn, states as follows:

1 1. My name is Gabi Stone. Until recently, I attended UW-Clearwater, where I was
2 majoring in Business with a concentration in restaurant management. For as long as I can
3 remember, I have wanted to work in the restaurant business. Probably because my parents were
4 always opening restaurants as I was growing up. They would come up with their restaurant
5 concept, work really hard to get the restaurant up and running, and then move on to their next
6 project after a few years.

7 2. Throughout my childhood, I spent most of my time running around the restaurants
8 my parents operated. At an early age, I learned how important kitchen safety is, what to look for
9 in employees, and how to lead a group of people. Before I left for college, I was a manager at the
10 50's themed-diner my parents owned and operated.

11 3. When I was a little kid, I was diagnosed with Type-1 Diabetes. Type-1 Diabetes is
12 a chronic condition that typically appears during childhood or adolescence. Unfortunately, it has
13 no cure. I was diagnosed when I was right around six years old. Without going into too many
14 scientific details, I have to make sure to keep my blood sugar as close to normal levels as possible.
15 Over the years, I have gotten really good at managing my blood sugar levels, and have followed
16 my doctor's medical advice to a T. I was a little bit concerned going off to college that I would
17 have problems managing my diabetes, but other than some minor incidents, I didn't have any
18 problems until 18 months after I started working at The Donut Whole.

19 4. When I started college at UW-Clearwater in September of 2018, I immediately
20 started looking for a job to help support myself and pay tuition. My parents had made a deal with
21 me that they would cover tuition my freshman year, and then it was up to me to support myself
22 financially. I learned quickly that The Donut Whole was the cool place near campus to work. I was
23 also really intrigued that the business was the only one in Wisconsin that could accommodate
24 almost every food limitation with their food. Vegan? No problem. Gluten free? They make donuts
25 for you. Most importantly for me, though, they make low-glucose donuts that accommodate my
26 dietary needs being a Type-1 Diabetic. It also didn't hurt that The Donut Whole has a starting
27 wage of \$15 per hour, which is basically unheard of for young employees like me.

28 5. Working at The Donut Whole started off as a dream come true for me. The business
29 trained all of us employees in almost every single area of the business, so not only was I working
30 at the cashier, I also got to assist with the baking process. It was exciting coming into work every
31 day and not knowing what my job responsibilities would be. The only downside to working at The
32 Donut Whole was the owners were really strict about everything--dress code, cell phones at work,
33 you name it. When I started, the owners were already in their 70s. I figured that they were just
34 really set in their ways, and wanted everything to be perfect—which I completely understood
35 coming from a family that owns restaurants. Five of the owner's children are in management
36 positions, and for the most part, I put on a good show of getting along with them all pretty well,
37 despite their reputation of having some weird family drama and being hard to get along with. I
38 figured it was in my best interest to at least pretend to get along with them. I did, however, have a
39 pretty good relationship with Kendall Harrison, the Vice President.

40 6. It also helped that I got to work with one of my best friends at work, Bryce Price. I
41 met them my first semester of college at freshman orientation and we hit it off right away. We had
42 a lot of the same interests, including the restaurant business. We actually both started working at
43 The Donut Whole right around the same time. I started first, and because my experience was
44 initially so great, I was able to convince Bryce to apply as well. It seemed like for the first few

45 weeks of my employment, I was telling everyone I talked to about how great working at The Donut
46 Whole was and was telling everyone they needed to apply. That opinion did not take long to start
47 changing.

48 7. Since we were really close, Bryce Price was one of the few people who knew about
49 my diabetes, and became one of the people I could trust to help me if I needed it. They actually
50 assisted me in the past during one of the few times I went into diabetic shock early on during
51 Freshman year. I wear what's called a continuous glucose monitor (CGM) to monitor my glucose
52 levels. It's a tiny sensor that is inserted in my abdomen that tracks my glucose and sends it to a
53 monitoring system. If my glucose gets too high or too low, I get an alert.

54 8. One cool feature of the CGM is it can send alerts to my phone. I also have it set up
55 to send alerts to Bryce Price's phone, too, so if I'm going into diabetic shock, I have someone close
56 by who can help. So for example, if my CGM is indicating my glucose levels are getting
57 dangerously low, both me and Bryce Price will both get an alert on our phones that says "Gabi
58 Low." After that first incident freshman year, I asked Bryce if I could have my CGM send alerts
59 to their phone in case I started to go into diabetic shock and they agreed.

60 9. Like I said, everything with work was great for a while. Then I started to notice
61 how strict the owners were, and how nit-picky they were about even the smallest things. It started
62 to escalate, though, when I was essentially forced to work overtime hours.

63 10. It was after working at The Donut Whole for about a year that I started to get asked
64 to work overtime hours pretty frequently--more than frequently, actually. It started to be after
65 almost every shift. Most of the time I did not mind picking up extra shifts since I would get double
66 time for any overtime hours worked. I really needed that extra money to cover my tuition after
67 freshman year!

68 11. It started to become more of a problem when the COVID-19 pandemic came to
69 Wisconsin, and the Safer at Home order shut everything down. The owners said we were still an
70 "essential business" because we were in food production, but we just had to shut down the front
71 end, focusing solely on drive-thru, delivery and shipping. We had a flood of business from people
72 who were home and wanted to support their favorite businesses, but at the same time, a bunch of
73 employees had to go home because they had kids home from in-person school. Then, those of us
74 who were able to work had to work more than ever. The overtime hours were more and more
75 frequent--at least two to three days a week.. I still had school work I had to get done, and my extra
76 hours started to interfere with my school work a bit. The extra hours also started to make it more
77 and more difficult to get meals in to manage my glucose levels, and I started eating more donuts
78 since I was missing more meals.

79 12. I remember one night—April 9, 2021—Spencer Harrison, the president of the
80 business and the child of the owners, asked me to work some overtime hours. Actually, it was
81 more of a demand. I had already worked from 6:00 a.m. to 2:30 p.m. and had been up half the
82 night trying to complete a big project for one of my classes. The business was so busy that day
83 because the special was one of the all-time favorite flavors—cracked-pepper, scallion, and gouda.
84 Spencer came up to me at 2:29 p.m. right as I was getting ready to clock out for the day, and told
85 me I needed to work an extra four hours to help with the rush of orders. I tried to respectfully
86 decline the extra hours since I was pretty exhausted and I could tell my blood sugar was starting
87 to get low, but Spencer insisted that I stay and help. I did not feel like I could say no at that moment
88 so I agreed to stay the extra hours.

89 13. Throughout the next few hours, I could feel my body start to shut down. I knew I
90 needed to get some food in my system, but work was so busy that there was not time to eat.

91 Throughout the afternoon, I started to feel more and more off. Bryce even noticed at one point
92 because they came up to me and asked if I was feeling okay. I wasn't, but needed to finish off my
93 shift. If I left early, I would not be asked to cover extra hours and I needed that money. I was also
94 scared that if I refused to work extra shifts I would be fired.

95 14. It had to be after 5:00 p.m. that my body finally gave out and collapsed due to the
96 diabetic shock as I was working on making cherry-peach donuts. I do not remember exactly what
97 happened, but Bryce Price told me later that night that I collapsed forward onto the donut conveyer
98 belt, was burned by the donut glaze, and thrown back onto the floor. I'm so glad that Bryce was at
99 work that day to help me.

100 15. Come to think of it, Bryce might have been the only one at The Donut Whole that
101 knew about my diabetes. It was not something I generally told people. I vaguely remember there
102 being a question on my job application about listing any medical conditions that could interfere
103 with being able to physically perform all of the tasks that were expected of employees. I had not
104 had any medical emergencies due to work in years, and did not think disclosing my medical
105 information was needed. Plus, I didn't want diabetes to define me in the eyes of others—I wanted
106 my strong work ethic and attitude to speak for themselves.

107 16. After "the incident," I was rushed to the hospital and had to spend the night there.
108 I was really upset that I had to spend the night in the hospital room, but luckily Bryce video-called
109 me on Nudge to keep me company for while, and Kendall Harrison sent me the Donut Whole's
110 famous flower bouquet (glucose free, of course), which lifted my spirits. I had made them so many
111 times, but had never been on the receiving end, and quickly learned why they were so popular. I
112 thought that it was really nice of Kendall to make that gesture and send me well-wishes--especially
113 since none of the other family in management seemed to care.

114 17. To my horror, the day I was released from the hospital, an article about how Spencer
115 Harrison overworks all of us was published in the local newspaper, and right on the front page of
116 the paper was a picture of me being wheeled out of The Donut Whole on a stretcher. I remember
117 seeing it on Nudge and reading a quote in that article about how us employees need to sell our
118 souls to work there. I'm not saying the article was wrong, but it was just a tiny bit harsh to publish
119 for all of Clearwater to see. Plus, I certainly did not give anyone permission to use my picture.
120 Ugh, I could have died when I saw Bryce Nudge it. They just totally gauged my thoughts on that
121 situation wrong. I don't know if they realized, but I didn't talk to them for a week after that before
122 deciding to forgive them.

123 18. When I showed up for my next shift, I met with the head chef of the Donut Whole,
124 Lou Zuccherro, before clocking in for work. I explained that my collapse was due to my diabetes,
125 and that I would be more careful in the future about taking necessary breaks and keeping my blood
126 sugar regulated. Lou Zuccherro seemed understanding and I clocked in for work.

127 19. Pretty much right away after I returned to work, I was treated differently. I used to
128 have such a good rapport with the Harrison siblings—at least outwardly, but they all started to act
129 really cold towards me. I did not understand the reason for the shift in attitude. I had always gone
130 out of my way to help with the business, even if it meant sacrificing my school work and personal
131 life. A few days after I returned to work, I was written up for the first time since starting to work
132 at The Donut Whole.

133 20. The first time they wrote me up was for being about ten minutes late to clock in for
134 my shift. I was coming right from virtual class and the professor kept us an extra five minutes to
135 go over our next assignment. I tried to get to work as quickly as possible, but I was not able to
136 make it on time. I was really surprised because I had been a few minutes late in the past because

of school and it had never been a problem before. That same time, Lou also wrote me up for having a hair sticking out of my hair net. Apparently my co-worker, Fred, can't let a person have a bad day, and ratted me out for my misstep. I took full responsibility, though. I did mess up, after all.

21. The next write up came from something that apparently happened that same day, when Fred claimed I high-fived them too hard. Reese Harrison, head of Human Resources, actually ended up putting me on a performance improvement plan because of that high five. Sure I knew that Fred suffered from that carpal tunnel, and sure, I was mad at him for putting a target on my back earlier that day, but I didn't think I high-fived him any harder than a normal high-five. I was just really excited that we came up with a new gluten-free recipe that tasted so good--a balsamic, tomato and basil donut. I really think management was looking for any reason to discipline me at that point.

22. Things got even worse, though, when the Clearwater Times published a second article about The Donut Whole two weeks after my collapse. The article basically said that a whistle-blower, someone within the business, claimed that The Donut Whole was making the gluten-free donuts with flour among other claims that were not true. Oh, Nudge had a field day with that one. I think that Spencer Harrison and Lou Zuccherro thought that I was the source of that "information" because they became even more cold to me during my shifts over the next week. Business did slow down quite a bit in the days following that article, but things seemed to pick right back up after the initial shock of the articles wore down.

23. Right after business picked back up again, I was called into the office of Reese Harrison. In addition to Reese being the head of Human Resources for The Donut Whole, they are one of the children of the owners (as is the case with all of management). Reese told me that I was fired effective immediately and cited some bogus story about how I allegedly dipped my hand in a vat of caramel-mocha frosting, licked my finger, and then dipped my finger back into the vat. I was in shock. I would never do something like that! I have known since I was a kid that doing something like that is not sanitary and not acceptable in a restaurant setting. I just knew that this decision went back to my collapse after I was forced to work extra hours.

24. Reese walked me out of The Donut Whole and I haven't been back since. I still cannot believe that a company that I worked so hard for could just fire me for some made up reason. I always suspected that the Harrison kids except for Kendall blamed me for the bad press that came after I went into diabetic shock at work.

25. Working at The Donut Whole ended up being one of the worst decisions I could have made while in college. Not only did I spend a lot of my time working instead of focusing on schoolwork and the extracurricular activities that I really enjoyed, but after I got fired, I was unable to pay my tuition and had to drop out of school. I tried to find other work, but that picture that circulated in the newspaper made it really difficult. Plus, every place that was willing to hire me was minimum wage and it just was not enough.

26. I had such a hard time with what happened. Unemployed and unable to find a job I could afford to have, I could no longer pay tuition and living expenses. I had to move back home with my parents. It was so shameful. I have sat a lot of time in a dark room, just trying to piece together where I went wrong and what I would do next time to make it different. I have attended counseling and I became medicated for depression. The counselor connected me with the doctor over concern from my general feelings of helplessness and hopefulness. Thankfully I could go back on my parents' insurance so I could get the care I needed to try to climb my way out of this hole. I hope to someday be in a position to return to college.

182 27. I would caution all future employment prospects to take a good look at The Donut
183 Whole before accepting employment. I am so glad that Kendall was able to leave that place before
184 they started acting like their siblings. Firing someone for having diabetes is unforgivable.

Subscribed and sworn before me
this 8th day of July, 2020.
Larissa Dallman
Notary Public, State of Wisconsin
My commission is permanent.

Gabi Stone
Gabi Stone

AFFIDAVIT OF BRYCE PRICE

Bryce Price, first being duly sworn, states as follows:

1 1. My name is Bryce Price. Yes, it rhymes. I'm a junior at UW-Clearwater. I'm dual
2 majoring in music and marketing. I would love to work for a record label one day, or perhaps start
3 my own. You can check me out on Nudge (@ThePriceIsClearRight).

4 2. I've been really involved in trying to build up the music scene at UW-Clearwater.
5 I'm the founder and president of COSFAM, the Clearwater Organization of Students for Festivals,
6 Arts, and Music. Our goal is to put on the Inaugural Clear-Chella Music Fest in 2022. We've
7 already got a lot of Wisconsin artists signed up.

8 3. I met Gabi Stone the first week of our freshman year. Gabi and I lived in the same
9 dorm, Storman Hall—which we all call Storm Dorm—and we quickly became friends. Storm
10 Dorm is about as nice as it sounds.

11 4. I learned about Gabi's type-1 diabetes really early into our freshman year. You
12 know college students, especially freshman, don't always make the best decisions about eating
13 right. Well, during homecoming our freshman year, we were all celebrating together and Gabi
14 apparently forgot to eat as needed and Gabi almost passed out. We were standing in the common
15 room on our floor in Storm Dorm. I watched Gabi's eyes start to roll back and Gabi started to lean
16 backwards. I ran over, grabbed Gabi, and helped Gabi sit down on the couch. One of our other
17 friends got Gabi a chocolate bar. Gabi ended up being okay, but that really scared me. I now always
18 carry a chocolate bar with me so that I have one on hand if Gabi's blood sugar gets too low.

19 5. Thankfully, shortly after that homecoming incident, Gabi got an app that works
20 with Gabi's glucose monitor. I've got the app on my phone—a few of our other friends from the
21 Storm Dorm crew have it, too. Basically, if Gabi's blood sugar gets dangerously low, the app alerts
22 Gabi and us.

23 6. Right before the end of our freshman fall term, Gabi had another big scare—but the
24 app made a huge difference. I was down in one of the piano rooms in the music building working
25 on an instrumental for a song I was mixing and suddenly got the alert that Gabi's blood sugar was
26 too low. I called Gabi but Gabi didn't answer. As you can imagine, that freaked me out. I thought
27 about running back to Storm Dorm but the paths were covered in snow and that would have taken
28 too long. I called our buddy Ned, who goes by Neo, who thank goodness answered the phone. Neo
29 ran into Gabi's room and found Gabi passed out in bed. Neo had to call the school's emergency
30 medical services. I know Gabi was really embarrassed by us having to do that.

31 7. If I'm being honest, I was a little frustrated with Gabi after that all went down. I
32 felt like Gabi wasn't doing as much as they could to avoid a situation like that, in terms of
33 monitoring their blood sugar level and staying healthy. But Gabi explained that they had felt fine,
34 and I mean, now that I think about it, what do I know about what it would or wouldn't feel like to
35 be type-1 diabetic during freshman year when everyone has a hard time making healthy choices
36 while out on their own for the first time. And it's not like the food on campus is particularly healthy.
37 Fried, fried, and pizza seem to be the go-to options.

38 8. Maybe a part of it is that Gabi also works super hard. I like to think I work pretty
39 hard. I'll be in a music room on campus for like 10 hours straight. But Gabi works way harder than
40 even me. I sometimes have to remind Gabi that we're in college—this is supposed to be fun, too.
41 I've tried to get Gabi out to some shows, but Gabi's always working, whether on schoolwork or at
42 the Donut Whole.

43 9. When I was looking for a part-time job at the beginning of 2019, Gabi
44 recommended that I apply at the Donut Whole—at the new, big location where Gabi worked. Gabi
45 said that the owners, the Harrisons, were a bit particular, but that it was a good place to work. I
46 was excited about being able to work with Gabi. Also, for whatever reason donuts are like the one
47 un-healthy food that I could care less about, which was probably for the best because otherwise I
48 would have been eating nothing but fancy-pants donuts.

49 10. I started working the drive-thru window mid-January of 2019. “Welcome to Donut
50 Whole, Home of the Whole Donut, Can I take your whole order?”—now repeat 500 times. The
51 Harrisons apparently felt I was so personable that they told me that they only wanted me working
52 drive-thru. Most employees are supposed to work a variety of the positions, but I stayed at the
53 window. I’m a pretty friendly person, so I didn’t mind. Plus, it meant I didn’t have to go through
54 cross-training. And, I mean, they wouldn’t let employees have their phones out, so it’s not like I
55 could have been checking my Nudge account, anyway.

56 11. Though serving donuts at a drive-thru should be a pretty easy gig, it wasn’t easy.
57 First, Donut Whole has so many options, that orders got really complicated really fast and I had to
58 be really careful about avoiding cross-contamination, keeping differently-grouped products in
59 separate packages and remembering what’s what to tell the customer. Second, the Harrisons
60 weren’t really that respectful of the fact that we were college students and had work to do beyond
61 the Donut Whole. For example, I had to put together a big presentation for COSFAM when we
62 met with the University to discuss Clear-Chella. The meeting was a Tuesday night. My shift ended
63 at noon, and at like eleven Spencer just walks up and tells me they wanted me to come back and
64 also work two to five. Not phrased as an ask, phrased as a “you need to.” I said I couldn’t do it,
65 and that was that.

66 12. The Harrison siblings were interesting. As I mentioned, they were not really
67 respectful of the fact that many of the employees, Gabi and me included, were college students
68 and therefore had other lives and responsibilities. But beyond that, most of their issues seemed to
69 be with each other, not with their employees—at least at first. Kendall would be direct with us, but
70 at the same time was generally reasonable. Kendall also never seemed to be the one to have to
71 deliver the bad news when it came to big-picture matters affecting employees. Spencer and Reese
72 could be stricter, but really my only complaint before Gabi getting injured was that they all seemed
73 to ignore that we had lives outside of the Donut Whole. Though, maybe that shouldn’t be too
74 surprising given that the business was their whole lives.

75 13. I also got the sense that Spencer and Reese resented Kendall. I’m not 100% positive
76 why, especially given that Spencer outranked Kendall. But I just remember staff meetings where
77 Spencer and Reese would look at each other and roll their eyes at various points while Kendall
78 talked to the staff.

79 14. I was working the drive-thru, as always on April 9, 2020, (“Welcome to Donut
80 Whole, Home of the Whole Donut, can I take your whole order?”). Gabi and I got lots of extra
81 hours early in the Safer at Home order since so many of the workers who were parents had to be
82 home with their kids. Gabi and I both had to stay late. Gabi was tending to the large conveyer belt
83 with all the hot, fresh donuts in the classic donut section that we call the “sweet” section. As I’m
84 handing donuts out the window, I hear a crash sound. I look over to see Gabi, who apparently had
85 fallen into the conveyor belt, slamming backwards onto the ground. I could see burns from contact
86 with the hot donuts on Gabi’s face mask and arms. I ran over and Gabi was passed out. I didn’t
87 have my phone so I couldn’t see where Gabi’s insulin levels were. I just ran and grabbed some
88 donut glaze that was not scalding hot and dripped it into Gabi’s mouth. I screamed for someone to

89 call an ambulance, and then went and grabbed my phone to monitor Gabi's blood sugar level until
90 the EMT's arrived. I remember seeing someone in a waiting car peek through the drive-thru
91 window, and other employees coming over from other sections to see Gabi. Thankfully, the glaze
92 worked at reviving Gabi, and I sat with them until the paramedics arrived. We talked for a long
93 time on Nudge while Gabi was in the hospital. I just wanted to make sure they didn't feel lonely
94 since the hospital wasn't allowing visitors due to COVID-19.

95 15. I worked the same shift as Gabi when Gabi returned after their injury. I know Gabi
96 thinks that everything felt fairly normal that day, but to me things felt real awkward. Lou Zuccherro,
97 the head chef, seemed irritated in general and really irritated at Gabi specifically, just watching
98 Gabby's every move extra closely. I also remember that Spencer was at our location that day, and
99 was seemingly doing everything in their power to avoid being near or having to talk to Gabi that
100 day. One of them—I don't remember which, it was so long ago—even asked me about Gabi's
101 monitor and the app I had on my phone to check in with it. I remember noting to Gabi how weird
102 Spencer was to Gabi that day. I think Gabi didn't want to believe it—they just shrugged it off, but
103 of course when it didn't get better after several days, it was undeniable.

104 16. I have no idea who said bad things about the Donut Whole to the press. It certainly
105 wasn't me, and I don't think it would have been Gabi: why would they have wanted to call that
106 much attention to themselves and their health after spending so much time being tight-lipped about
107 their diabetes? You better believe I Nudged that article, though, in solidarity with my person.

108 17. About a week after Gabi got hurt, I showed up to work (mind you, five minutes
109 late), and as I walked past Spencer and Reese, I heard Spencer say, "it's just too much of a risk."
110 Reese responded, "it's a shame to lose such a hard worker."

111 18. I understand that the business took a hit after all the attention that Gabi's incident
112 brought them. I noticed that the drive-thru traffic slowed a bit for a month or so. So much of that
113 business during Safer at Home seemed to come from people who felt strongly about continuing to
114 support local businesses and keep them open, and that local support seemed to slow (I'm assuming
115 since people read the article in our local paper) while our nation-wide shipping kept up at the same
116 speed. I was actually pulled from the drive-thru window to help with packaging for a little bit there,
117 but they didn't think I was good enough at putting the labels on neatly, so they sent me back to
118 drive-thru where things were quieter than usual. I also had to deal with drive-thru customers asking
119 me if I had been working when the college kid got hurt. But I still don't think any of that justifies
120 what they did to Gabi.

121 19. Gabi's concerns about people treating them differently if they knew Gabi had
122 diabetes were valid, unfortunately. In those weeks after the incident, it was obvious that the bosses'
123 attitude towards Gabi changed after Gabi got injured from going into diabetic shock. Gabi had
124 been the employee who always said "yes," when others like me would kindly remind them that I
125 had other things to do. They loved Gabi before. We all made the occasional dumb mistake, but
126 Gabi's suddenly were way more concerning. Like, now being a minute late is the end of the world?
127 I had been more than one minute late many times, and never heard anything about it. In fact, I had
128 always thought for all the ways they were not good at working with college students, they did seem
129 to be more lenient toward college students coming from class: whether it was right or wrong, it
130 was how it was. I've never been disciplined, period. Now one hair sticking out of the hairnet is the
131 end of the world? I think that's bogus.

132 20. I've seen and heard about many other employees doing things that, to me at least,
133 were far worse than being *one* minute late or having *one* hair sticking out of a hair net. Another
134 employee, Fred Rogers, told me that Kendall caught him straight-up stealing a dozen donuts to

135 share with his friends, and just told him not to do it again. And I've seen plenty of people forget
136 to put hairnets on until being reminded by the Harrisons. But I've never seen or heard about anyone
137 else getting written up because of anything like that.

138 21. I was shocked when they fired Gabi right at the end of sophomore year. They had
139 been treating Gabi so poorly, but I didn't think they would actually fire Gabi, especially when staff
140 shortages were such a problem. Maybe I was just being naïve. When Gabi told me, I immediately
141 called Kendall and asked how they could do that. Kendall seemed to be upset by it, too. I remember
142 Kendall saying, "that's Spencer—it's all risk versus reward."

143 22. Gabi's been having a hard time since getting fired. I think the incident at Donut
144 Whole has led Gabi to doubt themselves and question what their life will be like moving forward.
145 I keep telling Gabi that everyone has challenges, and that Gabi is always getting better at
146 monitoring their diabetes, but Gabi has taken it hard. Plus, Gabi still has some minor scars on
147 Gabi's arms from the donut burns. I'm just trying to be a good friend to help Gabi get through all
148 this. I feel so helpless since they left school. I just really want them to be able to bounce back and
149 rejoin the old Storm Dorm crew to finish out their degree.

150 23. I have continued to work at the Donut Whole. No, I'm not trying to spy for Gabi's
151 lawsuit: they still pay better than any other employer and the hours are there. But I will say, that
152 place has gone way downhill since Kendall left. It was almost like Kendall was a voice of reason:
153 now they have gotten much more strict about things. It definitely is not as pleasant as it used to be.
154 I just try to keep my head down and get the job done. I am definitely worried that they might fire
155 me for being a witness in Gabi's lawsuit, but I don't care. I just want to make sure the truth is out
156 there and support my friend in whatever way I can.

Bryce Price

Bryce Price

Signed and sworn to before me
This 27th day of August, 2020.

Hannah Jurss

Notary Public, State of Wisconsin

My commission expires 2/22/2023

AFFIDAVIT OF KENDALL HARRISON

Kendall Harrison, being first duly sworn, states as follows:

1 1. My name is Kendall Harrison. I am 47 years old and I currently live in Superior
2 Falls, Wisconsin. Until recently, I lived in Clearwater.

3 2. I grew up in Clearwater, in a restaurant family. My parents owned a shop called the
4 Donut Whole, and my five siblings and I grew up there. I have to admit it was pretty cool being
5 the kid who always brought the best birthday treats to school, but food service is hard work and
6 my siblings and I were not spared our share of that work. Our parents always relied on us to keep
7 the place staffed, which meant we really only had each other: we did not have much time for
8 outside fun or friends growing up.

9 3. I am the oldest sibling and I think it was pretty much understood that someday I
10 would be President and take over the company, and my parents groomed me in their business and
11 marketing practices. But, they didn't like that I chose to move away for college instead of staying
12 back to work for them like they wanted. They expected me to just squeeze in some college classes
13 and keep up my regular schedule, but I knew I needed to see what life was like outside the little
14 bubble I grew up in.

15 4. I always knew I'd come back when I graduated—and I did—but not before my
16 parents made my next-oldest sibling Spencer the new heir apparent. Things were different from
17 then on: with the rest of my siblings sucking up to my parents and calling me "Fancy Pants" for
18 going to college. Reese was the ringleader in this and the other siblings followed whatever Reese
19 did like little ducklings, even Spencer.

20 5. When my parents decided to step back and turn day-to-day management over to me
21 and my siblings, Spencer, the second-oldest, was named President; I was named Vice President;
22 Reese, the third-oldest, was named Human Resources Director; and the fourth-oldest, Lou, who
23 had just graduated from the tech school for culinary arts, was named Head Chef; and the fifth-
24 oldest, Simone, was named Business Manager.

25 6. However, there were not just five of us: there were six. Veronica, or "Vronnie," as
26 I have always called her, is the youngest. Vronnie was born with a chromosomal deficiency that
27 results in encephalopathy, profound-to-severe intellectual disability, and recurrent seizures. It also
28 causes delays in motor skills and, for Vronnie, resulted in her having limited communication
29 abilities. I did not see Vronnie a lot growing up because my parents shipped her off to any
30 institution that would take her. It really felt like, to them, our purpose as their children was to help
31 with the restaurant, and as soon as a child was unable to do so, she was disposed of.

32 7. I took some sociology and human development classes in college, and learned a lot
33 about the ways our society treats people who don't have "mainstream" learning or developmental
34 abilities. That inspired me to try to connect more with Vronnie, and I learned that she is really
35 quite an amazing person. When you step back from your expectations of what "normal" is and see
36 how everyone's starting line in the race of life is different, it is easy to see how amazing something
37 like a single step or a smile of recognition can be. I love my relationship with Vronnie. When I
38 lived in Clearwater, I was seeing Vronnie 1-2 times per week. I was the only family member seeing
39 her regularly. When I moved away, I actually took Vronnie with me, and now she lives with me,
40 along with a full-time, live-in caregiver who meets Vronnie's care needs while I work to support
41 us.

8. Anyway, back to the restaurant. My parents started The Donut Whole 50 years ago. They were just 23 years old when they started it, but life was different back then, and it worked. They originally named it “The Donut Whole” because they started it out of a “Hole-in-the-Wall” type space, and they were trying to use a play on words to convey that while it may seem modest, it was their “Whole” lives, and all they needed. Sweet, I know. Somehow despite the Plunkin’ Donuts and Frosty Kreme crazes that swept through our town, they turned out to be just phases and the Donut Whole survived, outliving them all. My parents prided themselves on their tradition of feeding our community.

9. When I came back from college, I told my family about some areas of the donut consumer market that we were missing out on. I made graphs, maps, and projections, and explained that we could expand our reach and make huge gains in our customer base with some shifts in strategy and some clever marketing. The general concept was that if we kept up with the current food crazes, we wouldn’t lose the customers who drop donuts as a part of those crazes. It started with the 90’s when everything was “low fat” or “reduced fat.” Next, people rebelled against the “trans fats” that were in the “reduced fat” products of the past. Next was sugar free/low-glucose (diabetic friendly) donuts. Next was organic food—that was when we changed the focus of the name Donut Whole to more “whole” foods. Then we realized we were missing out on an entire market share by not having kosher donuts, so we added those. Next, vegan. We started accommodating a wide array of allergy/food sensitivities (nut-free, egg-free, dairy-free, gluten-free). We have most recently been working with consultants to develop a “keto-friendly” donut. We also pride ourselves on having donuts to please all palates: those who like the standard donut types and flavors, more savory donuts—really, we aim to serve donuts that could work for every meal, every diet, and every restriction.

10. We expanded our facilities from the little “[W]hole in the wall” to a large baking facility with dedicated areas for each special category of donut to avoid all chances of cross-contamination. It had a little drive-thru window and storefront, with longer-term plans of moving all baking operations outside the small Main Street shop and reserving that just for serving coffee and donuts. This newer facility has allowed us to accommodate the special shipment requests that come in from all over the country. In turn, we have updated our website and social media to be able to reach people all over the state, and to process online orders. I am very proud of how I shepherded us forward to keep us up with the times. What was once a small business that was all-hands-on-deck to support just our family, became a thriving, major employer in Clearwater that supports dozens of families.

11. I’d be willing to bet that Reese will take credit for all that and say it wasn’t me: it’s just good optics for them. But we all know who was really running the show. If it wasn’t for me, the shop would not have become what it is.

12. I also pushed to make us an employer whose generous employment policies and community goodwill matched our generous donut variety offerings. I showed study after study demonstrating that happy, well-paid and well-trained employees are more loyal to the company, limiting turnover and resulting in more dedication since employees do not need multiple jobs to stay afloat. Our starting wage was \$15/hour, at the jobs requiring the lowest skill. We have a generous fringe benefit package, including health insurance, retirement contributions, paid vacation, and paid parental leave. We cross-train our employees so they become well-rounded

85 individuals who have a wide array of skills, giving employees opportunities to advance with little
86 additional training needed. A lot of high school and college students got their starts in the
87 workforce with us, but we employ a good amount of people who have built their careers with us,
88 too.

89 13. In selling my parents on these changes, they wanted me to be able to show them
90 exactly what the financial benefit (“return”) would be from every investment to grow and market
91 the business. I explained how not every customer can trace the path that brought them to us: not
92 all marketing provides a trackable benefit. Some benefits from marketing come from goodwill and
93 a good name generated in the community. Employee policies and word of mouth from happy
94 customers are just a part of that. We started donating 15% of our annual gross profits to charity,
95 mostly benefitting food banks in the communities we serve, in order to grow that good name and
96 goodwill. And of course to be good people, too.

97 14. However, sometimes there are just too many...donut makers in the...donut
98 kitchen? My siblings and I all took turns “on the floor” and outside our offices, directly supervising
99 employees (some of us doing our part on the floor more than others...). I may have created these
100 guiding principles, but the people in charge of implementing them on a day-to-day basis did not
101 necessarily understand how to implement them consistently. It almost felt like we talked a big
102 game about how we treated our employees, but we didn’t walk the walk. This gets extra weird
103 when your “partners” in business are also your siblings, and your long-standing animosities are
104 highlighted on a day-to-day basis. I would say one thing about how we should interpret our
105 policies, and then Reese would go over my head and say another thing: it is and always has been
106 about power dynamics, going back to childhood when my mom would make me babysit and Reese
107 said I wasn’t the boss of them.

108 15. I was starting to worry that we were becoming the type of company where you try
109 as hard as you can to tough it out and see how much you are willing to put up with for the good
110 pay before you can’t handle it anymore and have to leave. My siblings insisted on old-school
111 policies like strict adherence to rules about personal appearance: no untucked shirts, no missing
112 nametags, no wrinkles or stains, no facial piercings, no visible tattoos, all hair in nets, no side
113 parts--that one was influenced by one of my trendy nieces, no face masks “from home” in COVID
114 times—they must be employer-issued, no holes in jeans or worn out hems—do you know how
115 hard it is to find jeans without holes in them? The list goes on. And they were actually *on* a list
116 that Reese made. I regularly had to confront them when they add more to that list. Then depending
117 on which sibling was supervising that day, some were more strict about those personal appearance
118 rules, about being “on time,” snacking on the job, hand washing, cleaning procedures, cell phone
119 usage, etc. than others. I imagine it was nerve-racking for the employees to come to work and
120 not know who they’d get, and what they might get in trouble for on any given day.

121 16. Gabi Stone was one of our college employees. On their first day I called them “Jah-
122 bee” and they made clear their name was pronounced “Gah-bee,” so as any good boss would do, I
123 kept calling them “Jah-bee” for the whole time we worked together. They didn’t seem bothered by
124 me having a little fun with them, like saying “You’re doing a great jobby Jah-bee!” I like to keep
125 things light. Anyway, Gabi was a rock star employee. Pretty soon after hiring them and completing
126 their cross-training, we started assigning them to higher-responsibility jobs like closing and
127 opening shifts, and even training new employees. Some of our more experienced - but less

motivated - employees complained that we were favoring someone who wouldn't be around more than a few years over the people making their careers with us, and I suggested they see what they can learn from Gabi's positive attitude and hard work ethic. Besides, Gabi was covering the shifts no one else wanted, so I don't know how much there was to complain about.

17. I don't know a lot about the incident where we learned Gabi had diabetes. I was working in the office, trying to finish entering the inventory so I could get my order into our farmer for pickup at the farmer's market the next morning. Suddenly, someone – I don't even remember who – ran into my office and asked where Reese keeps their incident reports, because Reese had left for the day and they needed one. I wasn't on supervisor duty that evening—Spencer was, but obviously they were not to be found so I printed out a form from the computer system. I asked the employee if someone needed a first aid kit or if it was something more serious, and that's when I learned something was wrong with Gabi. I rushed out just as Gabi was being wheeled out to the ambulance. I tried yelling "you've done a good jobbyyyyyyy!!!" right before the ambulance door closed, but I don't know if they heard me. I talked to their best friend and co-worker Bryce to make sure they were okay, and they told me about Gabi's diabetes and what happened. I was shocked—I had no idea. When I found out the hospital wasn't allowing visitors because of COVID-19, I made sure to order our famous glucose-free donut flower bouquet to Gabi's hospital room. I was so mad at Spencer when I learned they had made Gabi stay late. There were other employees working that day who could have covered that time—it was not necessary at all.

18. I wasn't too worried about the Clearwater Times story that came out after that. It is a small town, and we are a big employer. We are in the news all the time. And, frankly, it was true. If that could be a wake-up call for my siblings, I didn't mind. I might have even nudged it myself—I don't remember.

19. After Gabi met with Lou to talk about returning, we had a family/business meeting to discuss Gabi's accommodations and make sure we were all on the same page. They all sounded pretty upset that Gabi didn't tell us, but eventually we agreed it was reasonable to let Gabi take a break to stabilize their blood sugar whenever they needed it. Weirdly, I think I was the only one who understood what diabetes was. This, coming from a family where my aunt once told me I shouldn't join the Peace Corps because she heard of someone who went and came back with "die-ah-beet-iss." Um, that's not how it works, Marge. I had to explain to my siblings that no one can "catch" it from Gabi. (I didn't end up joining the Peace Corps, by the way. Not because of that, but because I didn't want to leave the significant other I had at the time. I regret it to this day.)

20. Sometime the next week, I saw Gabi crying. I asked what was wrong and if they needed any orange juice (thanks, *Steel Magnolias*). They said they were fine, but they were just having a hard time. They said they felt like a "hot mess," and said they'd been "off" since the incident. They were late, their hair was out of control, and they felt like they were in hot water with my siblings and couldn't get anything right. I told Gabi I'd talk to them.

21. I tried talking to my siblings and asked what was going on. It felt like when I was a kid and no one wanted to sit next to me on the rides when we took a family trip to the amusement park. They banded together against me and said they were just enforcing the rules: no one took my side. Then they brought up the Clearwater Times article and asked who wanted to reach out to the reporter to clear things up. Spencer suggested they'd reach out, because "everyone likes hearing

from a President,” and at that point I was done with the conversation and left the room. I didn’t want to have anything to do with it.

22. Another article came out in the Clearwater Times the next week. Again, this was really just a part of the regular flow of articles about our place. It’s not like there is much else to talk about around here. I don’t think there is anything wrong with the court of public opinion (I like to call it “Nudge Court”) keeping us in check. We had another family/business meeting about the new article and I said I thought we should use it as an opportunity to advertise our new facilities where we have dedicated spaces for each dietary accommodation, but my siblings were out for blood. It was very important to Reese to try to “clear things up,” and Spencer agreed. This is right around the time they PIP’d Gabi. Again, I was outvoted.

23. Then came the next meeting, which changed everything. Gabi was alleged to have violated our hygiene practices, licking a finger and putting it back in the product without washing. If this was true, sure, it would be cause for concern: hygiene is super important during normal times, and even more so due to COVID. However, it has never before been cause for firing someone. Gabi said it wasn’t true and I believe them. I asked my siblings if they pulled the video feed for that part of the building, and they said they didn’t. I asked them to now, and they said it was too late, because the video is overwritten every 24 hours. I reminded them THIS was why I had been pushing for more space on our file server, and they said it was my problem, not theirs: they saw what they saw and didn’t see any need to preserve the video before it was gone. Reese said they had put Gabi on “double secret probation” which isn’t even a thing in our employment manual: I am pretty sure they made it up. We had never done it before. Also, we always did big things with a vote, and we never voted on this new kind of discipline. Reese talked about how Gabi is a “liability” and is only going to be “trouble” for us in the future. We got into a bit of a screaming match, and then Spencer said “okay. It is time.” Which is what they always said before we voted, like we were on some weird reality show. And like always, I was the odd one out: everyone but me voted to fire Gabi.

24. I couldn’t handle it: I knew it was wrong. I said that I wasn’t going to be a part of this. And...I quit. I just did it. And you know what? For the first time in my life outside of college, I felt free. I just packed up my office and left. As I was leaving, Reese yelled “Good riddance! And don’t bother coming home for the holidays!”

25. Gabi friended me on Nudge, and I accepted. I asked how they were doing, and they said I didn’t need to quit for them. Apparently word had gotten around. I told them I would be happy to help with whatever they needed: give a reference, write a letter, whatever. They were so sad about being fired, and about what that might mean for their resume. I felt so horrible.

26. I haven’t returned to the Donut Whole or spoken with the siblings who work there since. By leaving, I forfeited my bonus and my siblings reaped the benefits. I resent being forced to disconnect myself when I had single handedly grown that business into the success story it was. If not for me it would still be a “whole” in the wall fighting to survive against the big chains. I have since opened a shop here in Superior Falls called the Bagel Byte, which is increasing in popularity and is based on similar concepts. They don’t compete with the Donut Whole since they are a Bagel shop as opposed to a Donut shop, but my parents told me my siblings have been asking why they didn’t put a “non-compete” clause in our contracts. They must feel threatened.

212 Apparently they have also asked my parents if they gave me money to start my own shop. That is
213 none of their business.

214 27. Right now, I have all I need here with Vronnie and my business. I am not interested
215 in getting back into the mess with my siblings again. The business has been going way downhill
216 since I left, from what I hear: scaling back benefits to increase the executives' bonuses, and
217 requiring employees to take tests. I feel bad for my parents. This is not what they wanted. Maybe
218 someday we can all have a relationship again outside of work, but I am not ready yet. Especially
219 with Reese. I am going to need an apology first.

Kendall Harrison

Kendall Harrison

Subscribed and sworn to before me
this 16th day of August, 2020

Kristen Lonergan
Notary Public, Clearwater County, WI
My Commission is permanent.

AFFIDAVIT OF SPENCER HARRISON

Spencer Chandler Harrison, first being duly sworn, states as follows:

1 1. My name is Spencer Chandler Harrison. I am 45 years old, and I currently live in
2 Clearwater, Wisconsin.

3 2. I have lived in Clearwater, Wisconsin my entire life. I was born here, the second-
4 oldest child in our family of six children, raised here, went to school here through college, and am
5 proud to continue to work and live here. Some people think the need to leave home to see the world
6 before they can settle down, but I have never understood why people feel that way about
7 Clearwater. There is always so much going on. It feels like at least one a year, we have a big,
8 newsworthy event that takes the whole City by storm.

9 3. I grew up in the restaurant business because my parents founded the local donut
10 shop, The Donut Whole, over 50 years ago. I have been working in the family business since I was
11 old enough to wash dishes, sweep floors, and stock shelves – so about 6 or 7. My earliest childhood
12 memories are of helping my parents and older sibling, Kendall, at the shop in the mornings before
13 school and on the weekends.

14 4. As my younger siblings came along, they all joined forces to help keep the business
15 going through the years – well, all of them except our youngest sister, Veronica. Veronica was
16 born with some significant developmental disabilities, and requires around the clock care and
17 medical supervision. My parents did not know how to continue to provide for their large family,
18 keep the business going, and make sure Veronica was safe and cared for. Ultimately, they made
19 the decision to place her in a care facility at a young age.

20 5. I remember their long discussions and sometimes arguments on the best way to
21 meet her needs. I am several years older than Veronica, and I saw what that decision did to my
22 parents. I know very well what some of my other siblings and members of the community think
23 of my parents because of this decision. All I can say is, I think my parents did what they thought
24 was best for her given her care needs and desire for her safety and security. I cannot say I would
25 have made the same decision, but I also do not fault them for their choice. I only wish that they
26 would have been able to put more of an emphasis on us continuing to visit and spend more time
27 with her growing up. I get that they had five other kids at home and a business to run, but it never
28 seemed that they put forth the effort that they maybe should have to help us understand Veronica
29 better and form a relationship with her. I know that Kendall began seeing her regularly when they
30 moved back to Clearwater, and I wish that I had had the courage to start seeing her more regularly
31 even now, but it feels like too much time has passed. Anyway, Kendall took Veronica to live with
32 them in Superior Falls, which is so far away. It almost feels like Kendall wants her to stay estranged
33 from the rest of us. Kendall acts so freaking superior all the time – I am not even surprised that
34 this is how they chose to act. But anyway, because of the distance it now really feels like it is too
35 late for us – especially with how much The Donut Whole keeps me busy these days.

36 6. As anyone who has run a family business will tell you, running The Donut Whole
37 has been a 24/7 job since I started working here full time after high school. I took night and
38 weekend classes to slowly finish my bachelor's degree and MBA, a little at a time. It was not an
39 easy feat with all of the extra hours my parents needed us to work, but I am proud to say that I am
40 Clearwater through and through, and I was committed to the business and staying in Clearwater to
41 keep it going. At one point, I did ask my parents if I could take some time off to complete a few
42 of my tougher courses, but they really needed me to cover extra shifts at the shop. I am glad that
43 I was around and available to help them out so that they could get a bit of a break after all their
44 hard work. Even though it took me awhile, I did it. There was not a lot of fanfare when I graduated

like with Kendall, but I did not really need that: I'm not that fancy. After all this time, I am still not sure why Clearwater and its amazing technical school and university is not good enough for some people.

7. From the time I took over as president of The Donut Whole, I began implementing what I thought were common sense changes to carry on my parents' legacy of being a model employer and real asset to the community. My goal was to grow The Donut Whole to be able to withstand whatever new health fad was coming out and outlast any fly-by-night competitors. The most crucial part of my business plan was to train and retain our best employees and really capitalize on our best asset – our awesome team members. I know Kendall will say this was all their idea and that when they got back from college, they had to whip the entire business into shape and bring it into the 21st century, but this is a classic Kendall exaggeration. We were doing great, even when they were away at school. I'm not saying they didn't bring anything or add anything to the team by returning home, but Kendall really has an inflated sense of self when it comes to their contributions to the shop.

8. First of all, when I took over, I was already in the process of working with a local attorney to make sure our training policies and procedures were up to date and that our employee handbook was in good shape. Our parents ran a tight ship, but they never had anything documented. Reese eventually put those procedures into a neat and tidy list for everyone to have readily available, which really helped my efforts. I learned in my risk management courses early on that not having things documented, clearly communicated, and equally enforced was a recipe for disaster. In the years since I have been president, we really turned things around in that regard. I like to think that I took my parents' legacy and made sure that we carried it forward into a new era with even better business and managerial sense. I get that people think we are strict with the rules for our employees, including punching in and out, the dress code, hygiene standards, etc., but when other businesses are folding, we have stood the test of time. Up until now, we have of course had worker's compensation claims and different accusations against us—it would be impossible not to, but never something like this, for a *disability*, of all things.

9. Limiting our liability is one of the ways we have been able to ensure that we can pay everyone a living wage, offer a generous benefits package, bonuses for safety in the workplace and meeting production values, and reinvest in our community through charitable giving. If you don't run a tight ship, things fall through the cracks, people get hurt, your expenses increase, and you can't provide a good working environment and wages for everyone. You have to be able to expect the same quality of work from everyone and adherence to the rules and demand the same level of performance from everyone in order to keep things running smoothly. If you start to make exceptions for a handful of people out of sympathy or pity, then you run into trouble.

10. First, I have to say, I am not a discriminatory person, so I don't even know how Gabi could be making this accusation. I love all people. I don't even see disability. We give 15% of our profits to charity, most of which is to the food bank, but also to our local Special Olympics chapter and the local charity softball team for children with disabilities. How can the company I lead be accused of discrimination when we do so much good for people with disabilities? I have diabetic friends. I would never discriminate against Gabi for that reason.

11. Second, I didn't even know Gabi had any conditions that could be considered a disability. They always kept their insulin pump tucked away, and we have a long sleeve uniform shirt that is required (even in the kitchens where it is hot – it helps prevent burns), which is I guess why I never saw the CGM they wear. I only found out about that after the fact when Gabi was reassuring me that they would be more mindful and avoid having any incidents in the future.

91 12. On April 9, 2020, the date of the incident when Gabi had a low blood sugar episode,
92 they came to me earlier in the day, prior to the scheduled end of their shift, and asked if there was
93 any overtime to be had. Of course there was: we were completely understaffed due to the
94 Governor's COVID orders. I know Gabi is a student at my alma mater, and school is expensive
95 even with a good job. It did not surprise me that Gabi was looking for extra hours. We had had
96 someone ask to come in for their shift late so they could attend one of their kid's concerts at school
97 they had forgotten to ask off for. We are extremely family friendly and do our best to honor these
98 requests whenever we can. You only get so many of those moments after all. I told Gabi they were
99 welcome to fill in for that shift on the production line.

100 13. I was in a vendor meeting off site when Gabi lost consciousness. Kendall, Lou, and
101 Reese all know that if they ever need me, I always have my cellphone on me. I do not know why
102 nobody called me immediately. I know what I said about not giving anyone special treatment, but
103 I generally liked Gabi as a worker. They were smart, highly competent, extremely motivated, and
104 at the same time, never turned their nose up and filling in for shifts regardless of what the work
105 was that needed to be done. I felt terrible when I found out that they had been struggling to manage
106 their health while working for us. However, I will say, when I found out Gabi had burns on their
107 arms I really contemplated whether I should write them up for apparently having their sleeves
108 rolled up (how else would the burns have gotten on their arms?). I ultimately decided I shouldn't
109 kick someone while they were down, you know? I'd just make sure to keep an eye out to avoid
110 things like that in the future.

111 14. After the fainting episode, an absurd article ran in the Clearwater newspaper—print
112 and online, and of course on Nudge. We are used to this. As the largest employer in the area, we
113 are used to the investigative journalists poking their nose into our business. It is annoying and,
114 admittedly, gets me pretty heated when it comes out, but we always survive it. This town can't
115 survive without us. They know it – and quite frankly, we know it.

116 15. My siblings and I met to debrief about Gabi's episode. Admittedly, the topic of the
117 newspaper article came up briefly, because it was out on my desk and Kendall noticed it during
118 the meeting. When Kendall mentioned it I expressed how frustrated I was about it and how I
119 wanted to get to the bottom of it. Kendall turned it into this big thing about me apparently not
120 being able to let things go and move forward, and "capitalize" on the attention. Of course—like
121 usual, they brought it up, and then they didn't like the answer, now they are the one who left and
122 is pointing a finger. Will the sibling rivalry never end? I get it. You are the oldest. But you left!
123 Get over it. Getting back to the meeting, we agreed that because Reese can be a bit harsh, they
124 would not be the one to reach out to Gabi about a return to work plan. Instead, Lou – who worked
125 mostly closely with them on a day-to-day – would make sure Gabi felt like they were ready to
126 come back to work.

127 16. Admittedly, I did pay more attention to Gabi when they came back to work, but I
128 couldn't really help it. I was nervous and wanted to make sure nothing else happened. However,
129 when you are paying more attention to a specific worker, you do notice when things are
130 awry. Shortly after returning, I noticed that Gabi's normally perfect adherence to our policies was
131 beginning to slip. They were late for a shift and had a uniform infraction on the same day! We
132 cannot allow employees to flout the rules and then blame it on their disability. While this normally
133 would have brought Gabi two steps closer to termination under our policy, we determined that the
134 incidents occurring on the same day and being noted at the same time would count as one. We are
135 extremely generous with our employees in that way.

136 17. When I got wind of the incident with Fred, however, we didn't have a choice but
137 to count that as another incident. You simply cannot go around physically harming your
138 coworkers, I don't care what your excuse is. I know Fred from our time on the Community Center
139 board together, and I know he would not embellish a story like that. He ended up needing two
140 weeks off to recover after that high five. We cannot take that sort of conduct lightly. Normally,
141 such egregious conduct would be grounds for immediate termination – however, we wanted to
142 give Gabi another chance (like I said, we are extremely generous to our employees), so we had
143 Reese put them on a Performance Improvement Plan. I'm not sure why Reese refers to this as
144 “double secret probation.” They've always been a little dramatic. It's not that secret. There was a
145 meeting with Gabi, it's documented in their file, and the only folks it is secret from is our other
146 employees. We try to respect everyone's privacy with respect to these types of performance related
147 issues. We want our employees to thrive and give them a chance to correct their conduct.

148 18. A few weeks after the incident with Fred, however, things just went too far. We are
149 just coming out of the woods a bit with the initial blow from the article and the Safer at Home
150 order, and had just managed to finish converting our Main Street location to a full-service donut
151 and coffee shop (thanks to the down time caused by the business slow down) – and I find out Gabi
152 has licked their fingers and then dipped their hand back into a vat of frosting. This is unacceptable.
153 Of all of the precautions we have had to implement in the last year and a half, to reopen and stay
154 open, basic hand hygiene should be a given. This isn't something new for Covid. I couldn't believe
155 it when Reese told me, but I had no reason to dispute the report. This was officially the third strike
156 and we called a meeting to vote on termination.

157 19. The meeting went as our meetings typically go in a family business - a lot of loud
158 opinions and some chatter on miscellaneous “news” of the moment, like the newspaper stories and
159 Gabi's prior health-related incident before we actually got down to the business of discussing the
160 issue at hand. I won't deny that Gabi's diabetes and the incident came up when we were all
161 gathered. It was on everyone's minds. We discussed it in the context of everything else that had
162 been going on in recent days with the business and everyone who was involved or had information
163 about Gabi's work with us. Reese again brought up “double secret probation,” -- I know I'm the
164 president of the company and a professional, but this always makes me roll my eyes. This is a
165 made up term - so dramatic! So unnecessary! It's just a PIP. Despite all the static of other
166 conversations around the various issues of Gabi's employment, it ultimately came down to the
167 multiple documented violations of the known work rules that are posted all over the place: over
168 the sinks in each section and at each computer station. No amount of accommodation can help
169 someone who won't follow the basic rules.

170 20. I know what Kendall is going to say – we are unfeeling and didn't give Gabi enough
171 of a chance to get settled back in after what was understandably a traumatic incident. That isn't
172 true. We were all anxious that they would have another diabetic episode, but despite the trouble
173 that that would inevitably cause, that was not why Gabi was fired. I can't help that things started
174 to unravel for Gabi after that day. Gabi got a copy of the employee handbook on the first day. Gabi
175 signed the handbook indicating that they had received it, had an opportunity to review it, and had
176 had an opportunity to ask questions or voice concerns. They never did.

177 21. Quite frankly, in reviewing Gabi's file for the PIP, we realized Gabi could have
178 been fired for lying on the application and initial screening materials for not disclosing their
179 condition. But we did not do that. We did everything we could to try to keep Gabi as our employee,
180 but we have to treat everyone equally. I didn't *enjoy* being a part of the team that fired Gabi, but I
181 sure was glad Reese delivered the news instead of me. It is regrettable that Gabi could not conform

182 their behavior, but it is what it is. I wish Gabi the best of luck in their future endeavors and hope
183 that they can get themselves squared away and find success elsewhere.

Spencer Harrison
Spencer Harrison

Subscribed and sworn to before me
this 7th day of September, 2020.

Kristin Pierre
Notary Public, Clearwater County, WI
My Commission is permanent.

AFFIDAVIT OF LOU ZUCCHERO

Lou Zuccherro, first being duly sworn, states as follows:

1 1. My name is Lou Zuccherro. I am 40 years old and a life-long resident of
2 Clearwater. I'm married with two children. Our extended families all live in Clearwater.

3 2. I have my dream job as the head chef at The Donut Whole. As a pastry chef that
4 wants to stay in Clearwater, there are few good career options. The only other places to make
5 pastries in town are the Wiggly Piggly bakery and deli, Mike's Café, or Speedy Trip. And those
6 places don't allow a pastry chef to do anything but the same old tired recipes. There's no room
7 for creativity!

8 3. And don't get me started on the sugar-laden ingredients at other places. It's not
9 like the wholesome ingredients used at The Donut Whole. It's what we are known for. I've really
10 perfected our healthy and alternative options over the past few years as head chef. We are the only
11 donut bakery in Wisconsin that can accommodate almost every food limitation.

12 4. All of our donuts are organic. We have dedicated kitchen spaces for a wide variety
13 of dietary accommodations: I make special donuts without eggs, nuts, sugar-free, low-glucose,
14 kosher, gluten-free donuts, vegan, and fat-free baked donuts. Our donuts are so famous that we
15 now bake for several local businesses and we started shipping donuts to establishments all over
16 the country.

17 5. I created our most popular donut of all time: the cracked-pepper, scallion, and
18 gouda savory donut. Until we started with these savory flavors, you couldn't imagine a dinner-
19 time donut rush!

20 6. I fell in love with baking and pastries as a child visiting my parents at work at The
21 Donut Whole. The science and production of the donuts was fascinating to me! I would spend a
22 lot of time daydreaming about exotic flavors (cotton candy, anyone?!?) and mapping out kitchen
23 setups that could make production more efficient.

24 7. My parents own The Donut Whole. I know that there are some rumors that I only
25 got the head chef position because it's my family's business, but that's not fair. I earned this
26 position with hard work and learning under some of the best in the business first. Just like our
27 other employees, I've worked a variety of roles in the business from cleaning equipment to
28 working the counter to baking donuts.

29 8. Everyone knows my parents always ran a tight ship, and that has carried over as
30 my siblings and I have taken the reins: there's no tolerance for errors or excuses. We have a strict
31 dress code, appearance requirements and behavior policies. If my performance or qualifications
32 weren't sufficient, my parents wouldn't tolerate it. My other siblings work in the business, too,
33 except my youngest sibling.

34 9. All of us except my youngest sister, Veronica, have worked our way up in the
35 business. Veronica was born with developmental disabilities and my parents decided to put her in
36 a care facility from a young age. That decision has caused a lot of tension in the family and talk
37 amongst town, even all these years later. No one in the family really talks about it. We've been
38 told it was a very tough decision for our parents and they bristle if her name comes up. I wasn't
39 very old at the time, so all I remember about her is a big smile. I feel too guilty to visit her now,
40 so I've only seen her a few times.

41 10. It's because of all these rumors, and enough of the family drama, that I took my
42 spouse's last name when we married years ago. I didn't want to immediately be associated with
43 the family, but I guess that didn't make much difference. In Clearwater, our family is so well-
44 known that people find out soon enough I am a "Harrison." There are some very interesting

relationship dynamics in the Harrison family. I just try to stay out of it for the most part, hence the name change. I'm not going to say I, the Head Chef of a donut shop, married my spouse *because* of their last name, but let's just say it made the decision to change my last name easy. I just want to make my donuts.

11. But it's impossible to escape the family drama sometimes, no matter how hard I try. The sibling rivalries are omnipresent, especially between Kendall and Reese. Those two are always complaining about something the other one did. Kendall was "too soft" to lead the company, if you ask Reese; and Kendall thinks Reese thrives on yielding power and enforcing their own rules in HR (and with that I can agree). But every company needs a rule monger, who doesn't mind being despised, to keep everyone in line. Reese fills that role in The Donut Whole. Frankly, I'm just glad I don't have to be the enforcer--Reese does a good job at it!

12. Reese was always a little too confident of their own abilities. They were all too happy to take on the additional work responsibilities from Kendall when they left the business after all this went down. But if you ask Spencer, they'll say Kendall was the one with the inflated sense of self. To be honest, I think all of my siblings think too highly of themselves! There's been lots of whispering lately amongst the team that Kendall's performance was not good enough, but I think one of my siblings started that. I thought Kendall took it too hard when they were outvoted on a policy, and that seemed to happen pretty often actually. I can compartmentalize easily enough and consider the issue from a business perspective instead of an emotional one, but Kendall really struggled with that.

13. As the business grew, we worked hard to be the premiere employer in Clearwater. We've employed a lot of high school and college students through the years, too. There are great benefits and high pay for even the lowest job in the company. We are really proud of how we serve the community. In fact, we donate 15% of annual proceeds to charity—mostly local food banks.

14. We are growing and expanding, too! A new building just outside town was recently completed and has been transitioned to house all of our baking. I was so excited when the decision was made to expand our baking facilities. With more space, I will be able to experiment with some new recipes, and I was finally able to design each kitchen space *my way*, with the layout and equipment I thought would make us most efficient. In fact, it has made it so we can bake, ship and process even more volume. I think the community was most excited about the storefront and drive thru window, although the storefront has been closed since the pandemic began. My parents' first location where it all started will become a coffee and donut shop.

15. As head chef, I worked closely with any employee baking and processing our donuts. Gabi was one of our employees who we initially thought showed great promise. They would even request over-time. But then they started to perform poorly. I was very disappointed.

16. On April 9, 2020, Gabi collapsed on the conveyor belt from a diabetic shock. Gabi had to be taken by paramedics. Some drive thru customers must have witnessed the kerfuffle with the ambulance and the stretcher and called the local paper, because next thing you know, a reporter was there. Even worse than having an employee hospitalized, the next day, the Clearwater Times published a photo of our business with the headline, "Donut Whole in a whole mess: overworked employee collapses from exhaustion." Anonymous sources were quoted denigrating our business practices, claiming we overworked employees and refused breaks. It was plastered across my Nudge feed. I couldn't believe anyone would say such things! The timing of this article after Gabi's incident was suspicious. I did some internet research to see what I could do about it, and it seemed like we were stuck without proof that it was Gabi.

17. The following day I met with Gabi about returning to work. I was concerned for many reasons. Gabi told me it was nothing to be worried about, as they had just eaten too many donuts from the “employee” donut stash. Gabi needed the money and wanted to return to work. So they were returned to their regular full-time schedule. I tried to talk to Bryce Price to learn about the app on Bryce’s phone to check Gabi’s blood sugar so I could decide whether to propose to my siblings that we grant an exception to the “no phones” policy for Bryce. However, Bryce was really closed off and didn’t want to share information about Gabi’s diabetes. I really haven’t been able to trust Bryce since—they clearly are just looking out for Gabi and not the business.

18. As I said, Gabi’s performance really declined after that. Within the first week of returning to work, they were very late. I had to notify HR. Gabi didn’t even bother to wear their hairnet properly. I had to write them up for a tuft of hair sticking out of it. We can’t have hair in our donuts! And imagine what a customer would think if they saw an employee working with the donuts with hair sticking out of the hairnet?!?

19. Another employee, Fred Rodgers, actually alerted me to the hairnet issue. Fred has carpal tunnel syndrome; everybody knows the repetitive bakery work bothers him. I understand Gabi gave him an overly aggressive “high five” at the end of the shift that hurt Fred.

20. Then a second Clearwater Times article came out. My heart dropped when people started sending it to me on Nudge. It was even worse than the first! This time the anonymous source claimed the gluten-free donuts really contained flour, the vegan donuts contained powdered milk and butter, the organic ham and gruyere actually did contain nitrates, and the savory potato-leek donut contained neither potatoes nor leeks.

21. I was devastated. How could someone make such outrageous claims?!? We worked so hard to distinguish ourselves in the donut business and this is how some ungrateful employee repays us?!? I couldn’t imagine why someone would do this and how the Clearwater Times could publish this unsubstantiated trash. We had six weeks of reduced business. But you know what—the good people of Clearwater can’t go that long without their Donut Whole fix! We soon recovered.

22. On May 28, 2020, we discussed another infraction from Gabi. They dipped their hand into a vat of caramel-mocha frosting, licked their finger, and dipped that same finger back in the vat. I saw this from the camera monitor in the office while I was doing some administrative work. I realize those are small screens, but I know their hand went in the vat and then back into their mouth! Why in the world would I need to keep that video when I saw it with my own eyes? It just doesn’t make sense.

23. We had a meeting to discuss Gabi’s termination after that. At that time there were three infractions and certainly grounds for termination. I was also concerned that if Gabi fell again, they could potentially spoil an entire batch of specialty donuts. That would cost us thousands in clean-up costs and lost sales. Not to mention the talk around town if word got out about such a thing. I also expressed my suspicions that Gabi was the anonymous source of the newspaper articles. I could think of no one else that would have such a motive.

24. Kendall couldn’t believe Gabi would be the one behind the articles. They thought the final incident--a finger licked and put back in the vat of frosting-- was insufficient grounds to fire them! That really got me, I raised my voice a bit and said that was “inexcusable!” I couldn’t believe Kendall thought we should jeopardize our company’s reputation and ignore simple sanitation because they had a soft spot for this reckless, ungrateful kid. Reese did a really good job following company protocol and laying out all the grounds for termination. I felt we shouldn’t even have to have that much discussion over it. I put my foot down and said I couldn’t have

137 someone like Gabi in my kitchen. Reese told me later that Kendall had muttered under their breath
138 “it’s not your kitchen.”

139 25. There was a bit of a screaming match between Kendall and Reese, and then Spencer
140 said it was time to vote. It was a no-brainer for me that Gabi should be terminated. Everyone but
141 Kendall voted for termination, and then they got up, announced they were quitting and stormed
142 out. It was so melodramatic.

143 26. I’ve seen the menu at Kendall’s new bagel shop. They may claim it is different, but
144 did you know they have a cracked pepper, scallion and gouda bagel!? That feels like a personal
145 attack, and very like Kendall: they’ve always brought the scheming and drama. With Kendall,
146 nothing is ever what it looks like at first. You have to look at the hidden meaning and motive, and
147 that meaning is clear there. Not to mention, I don’t know how in the world Kendall had the
148 resources to start a bagel shop *in the middle of a pandemic* with no experience as a baker. They
149 certainly forfeited their share of the year-end profits at the Donut Whole—which I’m not
150 complaining about, but I don’t see how they started something up and got it to be so successful so
151 quickly without a little help from Mom and Dad. Mom and Dad won’t say anything. I’ve called a
152 lawyer to see if we can say Kendall broke one of those non-compete rules I’ve heard about, but I
153 wasn’t able to get anywhere with it yet. I’m not looking to make amends with Kendall until they
154 fess up to stealing my recipe concepts for their shop. Until then, Kendall who?

Lou Zuccherò
Lou Zuccherò

Subscribed and sworn before me
on this 18th day of September, 2020

Ashley Richter
Notary Public, Clearwater County Wisconsin
My Commission: is permanent.

AFFIDAVIT OF REESE HARRISON

Reese Harrison, being first duly sworn, states as follows:

1 1. I am the 43 year old Director of Human Resources for The Donut Whole. The most
2 common question I get about going into human resources is, “Did you go into HR because you
3 like people?” Actually, I hate people. That has helped me be very successful in a career in human
4 resources. All day long you see the sordid underbelly of a company. I regularly update the
5 discipline log documenting all disciplinary actions taken against employees at The Donut Whole,
6 and every week I circulate an updated summary of the log for a two year period to the leadership
7 team of The Donut Whole. People saying things they should not say. People doing things they
8 should not do. Every transgression goes through human resources. It is enough to make you jaded
9 about people, I tell you.

10 2. One of the worst situations we had to deal with last year was an ongoing dispute between
11 two employees. She was an avid hunter and he was an avid anti-hunting animal rights
12 advocate. They both were frequently posting bad things about each other on Nudge. It got so bad
13 that one day during hunting season she parked in the employee parking lot with a dead deer she
14 shot tied to the top of her Prius just to annoy him. He drove to work the same day with a mannequin
15 covered in fake blood tied to the top of his Chevrolet Suburban just to annoy her. They parked
16 next to each other and it went downhill from there. I needed to fire them both. This is the type of
17 thing I deal with all the time. What is wrong with people?

18 3. I do try to make The Donut Whole a good place to work. The Human Resources
19 Department has helped put together a generous compensation package with excellent fringe
20 benefits. Those include competitive health benefits through our health plan, a great vacation
21 policy, generous family leave, a really good dental plan, health savings accounts, and subsidized
22 snacks. The best part of the compensation package is the salary and bonus. The starting salary is
23 \$15.00/hour for the lowest skilled jobs, but it goes up quickly from there after only six months of
24 employment. Nobody makes \$15.00/hour for long if they are any good. The bonus plan is also
25 equally generous. I guess it makes me feel good if the employees feel good, but the biggest benefit
26 of generous compensation is good employee recruitment and retention. Many employees are
27 younger and come and go so we want to keep as many employees as long as we can while attracting
28 a steady stream of new talent.

29 4. In addition to the stress of having to attract and retain talent, the owners put the burden
30 on the business to cross-train every employee. Employees might have one job one day and a
31 different job the next day. Lower wage employees could do everything like working at the counter,
32 cleaning equipment, cleaning the facilities, or assisting with baking and ingredient
33 preparation. The rationale is that the owners want to train “whole people” who have many skills
34 and are flexible. While that is a training challenge for the Human Resources Department, we have
35 a “can do” attitude and get it done no matter what. A chain is only as strong as its weakest link,
36 you know.

37 5. I think one of my best contributions to the company has been the Work Rules I prepared.
38 It took me a long time and a lot of collaboration with my siblings before I had it all consolidated
39 to one page (they had to reign me in a bit), but I like the concept of the employees knowing what
40 is expected of them and being reminded of it every time they wash their hands or clock in. That
41 way it is all out there: there are no surprises. The Work Rules I printed as an exhibit for my affidavit
42 are the Work Rules that existed in April and May of 2020.

43 6. I met Gabi Stone about eighteen months before the trouble started. They started off as
44 a great employee. I saw a lot of promise for Gabi in the organization. They were well on their
45 way to becoming a “donut head.” That is the term of endearment I have at The Donut Whole for
46 high-potential, motivated employees.

47 7. Then came the “incident.” I don’t like talking about it because the company did
48 everything it could. We did everything right. Gabi was the one who lied about their medical
49 condition. Gabi was the one who forgot their lunch that day and ate a donut they probably should
50 not have eaten. People work overtime all the time, and in fact Gabi asked to work extra
51 hours. Spencer Harrison, the company President themselves, actually told Gabi to rest because
52 they looked tired, but Gabi insisted on working. A company president has bigger things to worry
53 about, but they took time out of their very busy schedule out of concern of one employee’s well-
54 being. I mean that is like hero-type devotion to employees. Gabi kept going and we all know what
55 happened next. Gabi’s best friend, Bryce Price, apparently was the only one who knew about
56 Gabi’s diabetes, but they did not tell anyone either. So Gabi violated company policy by lying and
57 so did Bryce by keeping Gabi’s secret. Fortunately, our company policies were followed and
58 worked. Gabi was quickly and efficiently taken to the hospital by paramedics and because of the
59 quick response by the company and the emergency medical professionals Gabi was actually
60 healthy enough to be released from the hospital the very next day.

61 8. At The Donut Whole we take the Americans With Disabilities Act (“ADA”) very
62 seriously. We try to be tuned into people with disabilities, but it is their responsibility to raise the
63 issue. When disabilities of employees are raised, we work within the law to make reasonable
64 accommodations. The company has never been sued by an employee for violating the ADA. We
65 did reject one accommodation request from an employee who was feeling stressed with the
66 pressure of the demanding work schedule. They said they needed a “comfort dog” in the kitchen
67 with them to calm them down during work. We said that was unreasonable, but we found them
68 some less stressful tasks and everyone was happy. That employee is still with us today. Gabi
69 should have raised their disability and we would have responded accordingly — especially that
70 day. We have plenty of people who could have taken Gabi’s place. Cross-training, remember?

71 9. Worker safety is another one of my big priorities. I instituted a company policy that
72 every worker shift and every business meeting begins with a “safety moment.” A safety moment
73 consists of everyone coming together and one employee making a point about workplace safety. It
74 could be something about being careful around hot icing, but it could be something simple like
75 pointing out where the fire exits are or noting the projector cord on the floor in a conference room
76 so people do not trip over it. Before this policy, our company finance director tripped over a
77 projector cord and knocked out her front teeth on a conference table. They could not even chew
78 donuts for a week after their dental work was fixed. The safety moment helps create a culture of
79 safety — both directly based upon the safety point raised and indirectly by getting people to think
80 frequently about safety. Gabi’s little incident really messed up my safety statistics for the fiscal
81 year. One of the metrics for my annual bonus is safety performance, and even though I got a large
82 bonus that year it was 10% lower than it would have been if not for that accident.

83 10. Gabi’s “episode” got the company unfair bad press too, and that was the last thing our
84 morale and finances needed when we were understaffed and modifying our operations due to the
85 Safer at Home order. The Clearwater Times ran a story with a photo of the company headquarters
86 and a headline that read, “Donut Whole in a Whole Mess: Overworked Employee Collapses from
87 Exhaustion.” It was all over Nudge. Nonsense. It went on and on about things that were not
88 true. One anonymous source said, “The Donut Whole pays employees well in exchange for selling

their souls.” Talk about dramatic. The writer of the piece is a “news” journalist but does hit pieces on companies all the time. They never even asked to interview me or anyone else at the company. They just ran the story. I called and complained, but they never did a follow-up or retracted anything.

11. After that Gabi’s work performance deteriorated. Within the first week of returning to work they were already messing up. Head Chef Lou Zuccherro reported Gabi was very late one day for work. I had to put a letter in Gabi’s performance file for that. We have a lot of expensive equipment that should not sit idle for long and we have challenging production targets we need to meet. We can look the other way for a few seconds, but no more than that. The team is depending on you. Weakest link!

12. It got worse. Shortly after the reprimand for showing up late, the company had to write up Gabi because Lou found a lock of Gabi’s hair sticking out of their hairnet. It may seem harsh to penalize an employee for that, but do you want to eat a donut with someone else’s hair on it? I don’t, and I can tell you 99.99% of our customers do not.

13. Lou was actually alerted to Gabi’s hair disaster by Fred Rodgers. Fred suffers from carpal tunnel syndrome from repetitive work motions in the bakery. We are working to help him with that. Gabi knew about Fred’s condition and about his blowing the whistle on Gabi’s hairy display of insubordination. At the end of the shift the day after the hair incident Gabi turned to Fred Rodgers and said, “Job well done!” and gave him an overly aggressive high-five hand clap. This caused Fred pain and he had to take a day off from work. Another workplace injury, and another strike against the safety record of the company ... and me.

14. After the high five debacle, I said enough was enough. I “PIP’d” Gabi. That is HR lingo for putting them on a performance improvement plan — in this case for three months. During that period Gabi would have to eliminate the controllable work rule violations or they would be fired. One accidental uncontrollable violation was allowed, but no more. Going on a PIP is sort of like a warning with more formal metrics. You meet regularly with someone from HR and discuss how things are going and jointly devise strategies to stay violation-free.

15. Gabi was really angry about being put on a performance improvement plan. They said, “You just sit there in your fancy corner office, but you don’t know what it is like in the trenches.” Seriously? Gabi got paid to make a delicious treat that is beloved by the people of Clearwater. That is a badge of honor around town.

16. But here is the thing. Shortly after I put Gabi on the PIP the company got more bad press. Only two weeks after Gabi’s collapse and only a couple days after they went on the PIP, the Clearwater Times ran a second hit piece. The same journalist with the same agenda. More anonymous sources. More lies. I saw it for the first time on Nudge. There were all kinds of allegations about bad ingredients. None of it was true, but it hurt our bottom line for a little while. The paper again failed to ask us for a response or a comment. We are inspected all the time by local, state, and federal authorities. If we were committing fraud or otherwise violating food laws we would be in big trouble. I was legitimately concerned the article would get the attention of the US Food and Drug Administration. The FDA might send in its SWAT team. Did you know the FDA has a police unit? It’s true. They do undercover raids, among other activities. The unit focuses more on the “drug” side of the FDA, but it is there for the “food” side too, if needed. I was beside myself.

17. I investigated the source of the story, and of course I interviewed Gabi. I should have had a witness there, but time was of the essence. Gabi was very adversarial during the interview. They said, “You are targeting me! You are discriminating against me because of my

diabetes!” As if. I didn’t like Gabi because they were a hazard in the workplace and they were snitching to the media. But I wanted to give Gabi a fair chance. I said, “Gabi, remember that there is no ‘i’ in ‘team.’ Do you know what Gabi said? With a bratty tone of voice they said, “Yeah, but you can’t spell ‘team’ without ‘me.’” What insubordination! I did not have any evidence Gabi went to the press, but I think it was pretty obvious. I had one recourse. There is a little known codicil in the company bylaws that provides for a special employment status. Without Gabi’s knowledge, I put Gabi on “double secret probation.”

18. The last straw was the finger incident. Gabi dipped their hand into a vat of caramel-mocha frosting, licked their finger, and dipped that same finger back in the vat. Yuck! There was an emergency meeting attended by me, Spencer, Vice President Kendall Harrison, and Lou to discuss Gabi’s employment status. The meeting went the way they normally do. Spencer took charge because they were the president. Lou said, “It is terrible what Gabi did in the kitchen. Inexcusable!” Then I said, “You know, Gabi is the one going to the press as well.” I had to mention that fact. Spencer said, “You think they would actually do that!?” I shrugged my shoulders to indicate “Yes.” Kendall said, “Gabi deserves another chance.” Spencer then said, “How many chances do we give Gabi?” I shrugged my shoulders again to indicate, “You are right.” Lou said, “Well, I can’t have someone like Gabi in my kitchen.” Kendall then muttered under their breath, “It’s not *your* kitchen.” I said, “There is nothing we can do to accommodate someone like that.” I brought up the fact Lou had previously expressed concerns about workplace safety and that if Gabi fell again they could get blood in an entire batch of specialty donuts. Kendall was against termination and started to sulk because it was clear they were going to get outvoted, like usual. I mentioned Gabi was on double secret probation so they did not deserve a “last chance.” Kendall was effectively outvoted at that point, so Gabi was fired. In accordance with our HR policy, I immediately had Gabi escorted out of the faculty by security and then I boxed up their few personal effects that were on site to be handed over the next day to them.

19. Kendall is a softie. Every time there was a difficult decision to be made, they looked to take the easier path. They also whined and moaned to me privately about our “rule-based” policies and how they were too strict, but they never had the guts to say that to anyone higher up. So I told Spencer what Kendall said about that. Kendall also frequently complained HR was not giving them and their business team enough support to be successful. That is not true. Kendall was just a weak leader and loved to be loved. Kendall Harrison quit over the termination of Gabi, but I think they really quit because it looked like they would not hit their annual goals this year and they would have been fired for it, even though they were family. Spencer had had enough, and mom and dad would not have objected. Since Kendall left, I have picked up some of their business responsibilities outside of my usual HR tasks. It has been a great growth opportunity for me and I am doing very well.

20. A big success I had this past year in the company, and something that increased my bonus, was implementing a Myers-Briggs personality indicator test for management. This has managers answer a long list of questions to learn about what kind of person they are and how they might improve their management style. One fun twist was to pair the answer with a Star Wars character that matches the personal traits of the manager. Kendall was deemed to be Chancellor Palpatine, of course. I was deemed to be Jar Jar Binks. That is like the best one, right? I mean, who doesn’t like Jar Jar Binks?

21. Kendall has always acted like they are entitled. Maybe that is because they were the oldest child. They never worked hard and never had any real successes on their own. To use a baseball metaphor, Kendall was born on third base and acted like they hit a triple. When Kendall

181 was a kid they would get “participation” ribbons in sports for just showing up. They never won
182 any competition, but when the participation ribbon was blue they would say, “I got a blue
183 ribbon! Blue ribbons are the best!” I don’t think mom and dad even wanted Kendall in the
184 company, but there was nothing else they were qualified to do. Kendall was against the facility
185 expansion, and that was wrong. Kendall was against developing our national catalogue business
186 and shipping nationwide, and that was wrong. Kendall even had the lowest SAT scores out of the
187 six of us kids. I had the highest.

188 22. It is true The Donut Whole has received a number of age discrimination suits. These
189 were all bogus, though. Two years ago we had a significant “reduction in force” or “RIF” where
190 we needed to terminate a large number of employees. Basically, when you do that you need to list
191 employees on a big spreadsheet with their names, ages, race, gender, etc. and then as you decide
192 who to terminate you need to make sure you are not discriminating against any particular
193 group. We did need to terminate some people age 40 and over, which is a protected
194 class. Terminated employees need to present their streamlined argument to the US Equal
195 Employment Opportunity Commission (“EEOC”) to show some cause and get the right to sue, and
196 the EEOC ALWAYS lets employees sue their employer. Then the terminated employee files
197 suit. It costs at least \$50,000 and often up to \$100,000 in legal fees to go to trial in one of these
198 cases so even if a company wins ... they lose (money). Even in the most baseless cases, a company
199 like ours needs to pay around \$5,000, and maybe up to \$10,000 to settle in order to avoid the larger
200 trial cost. Our company settled four cases like that in the last RIF, and we settled twelve cases in
201 the last five years. Just for the record, we retained a lot of older employees too. We refer to them
202 at The Donut Whole as our “silver army.”

203 23. One age discrimination case did not settle. We call it the “Old Man Jenkins”
204 case. Jenkins took the case to trial, but we won. I was the star witness. I testified we didn’t fire
205 Old Man Jenkins because he was old. We fired him because he was slow, and we had the data to
206 back that up. All of those settlement and legal fees from bogus discrimination claims had to come
207 out of the employee bonus fund — punishing the good employees we retained, which is a shame. I
208 don’t want to brag, but I have been told by the lawyers we hire that I am so good at testifying on
209 the stand I could teach a master class on the topic.

210 24. After those lawsuits, I started keeping a summary discipline log to keep track of
211 disciplinary action taken and make sure we aren’t out of line. (We aren’t.). The summary discipline
212 log that I printed as an exhibit for my affidavit was current at the time I printed it in September,
213 2020 for 2020 and the year prior.

214 24. Gabi says we fired them inappropriately, but that does not make sense. Why would
215 we discriminate against Gabi if we knew we would surely end up in court or have to pay a large
216 settlement over something like this?

217 25. It has been so much better without Kendall around. We have all been able to turn a
218 greater profit without Kendall’s constant flow of expensive ideas that don’t gain us anything. I
219 have no plans to give Kendall business at their new shop anytime soon. When I asked my parents
220 how Kendall was able to open up such a similar business, they suggested maybe we need family
221 counseling, but I’m not interested in committing to anything with Kendall unless Kendall
222 expresses remorse for the way everything went down when they left.

Reese Harrison
Reese Harrison

Subscribed and sworn to before me
On this 3rd day of September 2020.
Kenneth Dortzbach
State of Wisconsin, County of Clearwater
My commission is permanent.

Summary Discipline Log for The Donut Whole — 2019 thru end of August 2020

Names Redacted and replaced with "Employee"

- Employee fired for taking drugs in company bathroom.
- Employee fired for speeding in company parking lot.
- Employee reprimanded for being one minute late.
- Employee fired for taking drugs in company parking lot.
- Employee reprimanded being too loud in kitchen.
- Employee PIP'd for bringing in outside food to kitchen.
- Employee fired for stealing food from employee refrigerator.
- Employee fired for stealing office supplies.
- Employee fired for showing up intoxicated for work.
- Employee fired for showing up for work on drugs.
- Employee fired for overly aggressive actions against coworker regarding pro-hunting.
- Employee fired for overly aggressive actions against coworker regarding anti-hunting.
- Employee reprimanded for shopping online during work with work computer.
- Employee reprimanded for having unkept nails in the kitchen.
- Employee fired for unsanitary behavior in the kitchen.
- Employee PIP'd for slow work habits.
- Employee reprimanded for unkept appearance at work.
- Employee fired for taking drugs in the kitchen.
- Employee fired for posting photos of kitchen on Nudge.
- Employee reprimanded for having untied shoe laces in kitchen.
- Employee PIP'd for lack of politeness to customers in store.
- Employee PIP'd for lack of personal hygiene at work.
- Employee PIP'd for lack of team attitude.
- Employee fired for smoking outside of the outdoor employee smoking section.
- Employee fired for being late five times for work in one month.
- Employee fired for showing up intoxicated for work.
- Employee reprimanded for having a phone in the workplace.
- Employee reprimanded for being 13 minutes late for work and for hair out of hairnet.
- Employee PIP'd for overly aggressive high-five
- Employee PIP'd for spilling batter in the kitchen three times in a month.
- Employee fired for using a company computer for online gambling.
- Employee fired for unsanitary behavior in kitchen
- Employee reprimanded for chewing gum at work.
- Employee PIP'd for lack of team attitude.
- Employee fired for refusing to work in the store.
- Employee PIP'd for using inappropriate language at work.
- Employee fired for being late five times for work in one month.
- Employee PIP'd for not meeting operations targets.
- Employee fired for taking drugs in company parking lot.
- Employee fired for unsanitary behavior in the kitchen.
- Employee reprimanded for not wearing company uniform at community event.
- Employee reprimanded for inappropriate haircare practices.
- Employee fired for selling drugs in company parking lot.
- Employee PIP'd for not following company script in store with customers.
- Employee reprimanded for excessive use of office supplies.
- Employee reprimanded for having unauthorized plant at desk.
- Employee PIP'd for unauthorized Nudge postings on company property.
- Employee PIP'd for lack of team attitude.
- Employee fired for showing up intoxicated for work.

EXHIBIT

A

The Donut Whole

Work rules – rules of conduct for all employees

To be posted above the sink at each production line and at each time clock/computer station

1. Employees must report to work at or before their shift time starts. Exceptions will be made in extraordinary circumstances.
2. Employees must remember to clock in and out each day.
3. Hands must be washed with soap and water and air dried after using the washroom and at least every hour and after eating.
4. All employees must wear non-slip shoes without shoelaces.
5. Shirts must be tucked in. Long-sleeve shirts only. To prevent burns, no rolling sleeves.
6. All employees must wear jeans without holes or frayed edges.
7. Clothes should be clean and tidy: not dirty or wrinkly.
8. All employees should wear their name tags at all times.
9. Facial piercings should be removed or taped over and tattoos should be covered up.
10. No dangly earrings, necklaces, bracelets, or other jewelry while working in the kitchen.
11. All employees must wear hair nets. Hair with a part must be in a center part to ensure even distribution of hair in the hair net.
12. Employees will be team players and always treat each other courteously and with respect.
13. Except in emergencies, cell phone usage during work shifts is prohibited. Cell phones may be used during employer-authorized breaks.
14. Employees shall not eat “street food” in the dining area when customers are present.
15. Employees may eat donuts that have been moved to the “employee section” because they were baked over eight hours earlier.
16. To avoid cross-contamination, employees may not eat anything, including donuts, in the kitchen. Employees may eat donuts in the dining area or the break area.
17. Employees shall remain mindful of cross-contamination and avoid bringing ingredients or products between production lines. They shall engage in proper uniform and glove changing if working multiple production lines in one day.
18. Employees shall follow all posted cleaning procedures for each piece of equipment.
19. Employees may not engage in any conduct that tends to cause physical harm to another employee or person on the premises.
20. Employees may not remove recipes from the establishment or otherwise disclose confidential culinary information to anyone. Ever.
21. Temporary COVID-19 rule: Employees shall wear employer-issued, clean face masks at all times, except while eating in an approved employee eating area. Employees shall sign and follow all COVID-19 mitigation policies set for the in the “COVID-19 Policy Memo” dated May 18, 2020.

EXHIBIT

B

The Donut Whole

Donuts made whole for the whole you.
All organic all the time.



Menu for: April 2020

Sweet

Old fashioned
Classic glazed
Classic with chocolate glaze
German chocolate cake
Raspberry tickle
Maple apple cake
Strawberry cheesecake
Cherry Bucky Badger
Wisconsin Cherry-Peach
Cotton Candy
Café au lait
Mint chocolate chip

Gluten free

Banana cream
Almond flour sugar glaze
Tapioca flour vanilla pudding
Rice flour veggie stir-fry
Sweet brown rice

Vegan

Cinnamon twist Root Beer
Chocolate Ginger peach
Bubble gum

Savory

Cracked-pepper, scallion, and gouda
Organic ham and gruyere
Potato Leek
Steak Frites
Farmer cheese, garlic, and tomato
Rosemary garlic

Low glucose

Yogurt peach cake
Mixed-nuts butter yum
Sugar free glazed (sweetened with stevia)
Sugar free sprinkles (sweetened with agave nectar)

Fat-free baked

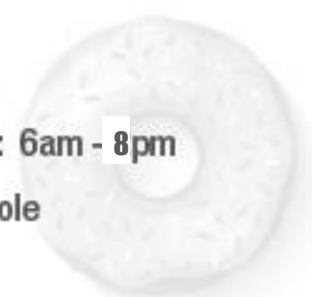
Nold fashioned
Nold fashioned cocoa
Nold fashioned blueberry
Not so classic cinnamon roll
Monkey-bread no-nut

EXHIBIT

c

Store Hours: T, W, Th, F, Sat, Sun: 6am - 8pm

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The Clearwater Times linked an article
April 10, 2020

Long touted as the premier employer in Clearwater, Wisconsin, has the Donut Whole gone too far too fast in its recent expansion efforts?
“We basically need to sell our souls to work there. You have to weigh whether the benefits are worth it for all you go through.” - Source



Donut Whole in a Whole Mess

Overworked Employee Collapses from Exhaustion



423



295



176 Nudges

This poster has not enabled comments. Nudge away if you have something to say!

EXHIBIT

D



@ThePriceIsClearRight nudged an article linked by *The Clearwater Times*
April 10, 2020

My Gabi! :(
Get better soon...

Long touted as the premier employer in Clearwater, Wisconsin, has the Donut Whole gone too far too fast in its recent expansion efforts?
"We basically need to sell our souls to work there. You have to weigh whether the benefits are worth it for all you go through." - Source



Donut Whole in a Whole Mess

Overworked Employee Collapses from Exhaustion



12



7



2 Nudges

@NeoNotNed: OMG WHAT HAPPENED!?! Is Gabi okay?

@ThePriceIsClearRight: Not here, Neo. Just come down the hall. I'm in the dorm.

@LikeaGabiStone: Bryce...what did we just talk about?



EXHIBIT

E



The Clearwater Times
April 26, 2020

A *Clearwater Times* Special Investigation: Known for its wide array of offerings designed to accommodate most current dietary restrictions, the Donut Hole may have bitten off more than it can chew, as even its state-of-the-art facilities are rife with cross-contamination. "If you think regular flour never gets into the gluten-free donuts, you'd be wrong." - Source



Too Many Holes to Stay Afloat

The Donut Hole's New Facilities Fail to Remedy Cross-Contamination Concerns



529



97



213 Nudges

This poster has not enabled comments. Nudge away if you have something to say!

EXHIBIT

F



@KendallHairsDone sent you a private message
April 9, 2020

How you doing, jobby? I tried to visit but they wouldn't let me in. Enjoy a treat instead. I hope I see you back at it soon—we can't have our rock stars away for too long! Let me know if you ever need anything from me. I'm so sorry this all happened...



You responded
April 9, 2020

No way. You are clearly the best Harrison. I've made hundreds of these but never had one myself. Tis delish and I'm making lots of friends at the hospital now by sharing the love. 10Q x 100. See you when I get back. Thank you.

EXHIBIT

G



@KendallHairIsDone sent you a private message
May 28, 2020

OMG JOBBY. I'm so sorry. I did everything I could.

You responded
June 2, 2020

I'm sure. Ugh. I'm devastated. This was not okay.
Thanks for the experience. I appreciated working with you.

They said
June 2, 2020

I left.

You responded
June 2, 2020

Kendall. NO. That place needs you.

They said
June 2, 2020

No. That place isn't me anymore.
I will bounce back.
You okay?
Let me know if you need a reference and I'm THERE.

You responded
June 5, 2020

I'm not. But whatever. I have some stuff to figure out.
Good luck finding what's next.
I know from personal experience that it isn't easy.

EXHIBIT

H

INCIDENT REPORT

D. Johnson
Reported By

Rondali
Supervisor Notified

Incident Information

Date: 4-9-20 Gabi ^{EN}
Employee(s) Involved: Gaby Stone
Location: Sweet section @ belt
Incident Description: 5:15pm - I was frosting in the sweet section and saw Gabi fall forward onto the conveyor belt then back on the ground. Bryce came over & grabbed my glaze. They gave it to Gabi. I called 911.

Witnesses: Me? Bryce? I don't know who else. People looking in drive thru window.
Employee Statements: _____

N/A
Employee Condition: Passed out?
Burns? Taken by ambulance.

For Supervisor Use Only (Routing): Worker's Comp? Disciplinary? Other?
KH KH → SLEEVES?
-Sh
No. KH

EXHIBIT

I

DISCIPLINE REPORT

Gabi Stone
Employee

Lou (Reported), Reese (Handled)
Supervisor Involved

Summary of Offense

Date: 4-17-20

Incident Description: Gabi was 13 minutes late for their scheduled shift. They claimed they were late because their professor's video froze while explaining the next assignment and class went long. We had to keep Rodgers late because of it. When Gabi arrived, Rodgers pointed out that Gabi had hair sticking out of their hairnet. That is a violation of Work Rules 1 and 11.

Witnesses: Fred Rodgers

Employee Statements: Gabi admitted to the infractions and apologized.

Employer Action Taken: write-up (first) – imposed by Reese

Employee Acknowledgement:

GS - so sorry. :)

RH-4-17

EXHIBIT

J

DISCIPLINE REPORT

Gabi Stone
Employee

Lou (Reported), Reese (Handled)
Supervisor Involved

Summary of Offense

Date: 4-17-20

Incident Description: After Gabi's infractions were discussed with her yesterday, Fred Rodgers, who has carpal tunnel, reported that at the end of the day, Gabi gave them an "overly aggressive" high five while saying "job well done!" Rodgers sustained a setback in his carpal tunnel recovery and will need to miss at least one day of work. Gabi's conduct is a violation of Work Rule 19.

Witnesses: Fred Rodgers

Employee Statements: Gabi denied any bad intent and said they were just high-fiving everyone because they wanted to end the shift on "a good note" after their infractions earlier that day. Gabi was very angry about the employer action taken, noted below.

Employer Action Taken: upon consultation with executive team, Gabi will be placed on a Performance Improvement Plan for three months, where they must eliminate work rule violations or face termination – imposed by Reese. Gabi to comply with all requested check-in meetings with Reese.

Employee Acknowledgement:

LS - E disagreed but was told E must sign.

RH-4-18

RH-4-26

*follow up - new article
(2 x prob'ly secret?)*

EXHIBIT

K

DISCIPLINE REPORT

Gabi Stone
Employee

Lou (Reported), Reese (Handled)
Supervisor Involved

Summary of Offense

Date: 5-28-20

Incident Description: While on a PIP, Lou observed Gabi on surveillance video dipping their hand into caramel mocha frosting, licking their finger, putting it back into the vat of frosting, and back into their mouth. This is gross and not hygienic and ruined a vat of product. It violates Work Rules 3 and 16 and also the COVID procedures.

Witnesses: Lou

Employee Statements: Gabi denied what Lou saw on video.

Employer Action Taken: upon consultation with executive team, was terminated, imposed by Reese. Kendall ~~assented~~

Employee Acknowledgement: _____

RH-5/28: started out without signing

EXHIBIT

L