

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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HOA CHI HOANG, *individually and on behalf
of all others similarly situated,*

Plaintiff,

-against-

GOOD TASTE CORP., KIEM QUACH,
TAI QUEN TRAN, and PAK CHAN,

Defendants.
-----X

Civil Action No.

**29 U.S.C. § 216(b) COLLECTIVE
ACTION COMPLAINT**

Jury Trial Demanded

Plaintiff, Hoa Chi Hoang (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his undersigned attorney, hereby files this Complaint against Defendants, Good Taste Corp. (“Defendant Corp.”), Kiem Quach (“Defendant Quach”), Tai Quen Tran (“Defendant Tran”), and Pak Chan (“Defendant Chan”) (collectively “Defendants”), and states as follows:

INTRODUCTION

1. Plaintiff alleges that, pursuant to the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201, *et seq.* (“FLSA”), he is entitled to recover from Defendants: (1) unpaid overtime wages; (2) liquidated damages; and (3) reasonable attorney’s fees and costs.

2. Plaintiff further alleges that, pursuant to the New York Labor Law (“NYLL”) §§ 650, *et seq.*, and Title 12 of the New York Codes, Rules and Regulations (“NYCRR”), he is entitled to recover from Defendants: (1) unpaid overtime wages; (2) up to two thousand five hundred dollars (\$2,500) for Defendants’ failure to provide a paystub that lists employee’s name, employer’s name, employer’s address and telephone number, employee’s rate of pay, any deductions made from employee’s gross and net wages for each pay day; (3) liquidated damages

equal to the sum of unpaid overtime wages, in the amount of twenty-five percent (25%) for unpaid wages before April 9, 2011, pursuant to NYLL §§ 190, *et seq.* and §§ 650, *et seq.*, and one hundred percent (100%) after April 9, 2011 under the New York Wage Theft Prevention Act; (4) nine percent (9%) simple prejudgment interest provided under the NYLL; (5) post-judgment interest; and (6) reasonable attorney's fees and costs.

JURISDICTION AND VENUE

3. This Court has original federal question jurisdiction over this controversy pursuant to 29 U.S.C. § 216(b), 28 U.S.C. §§ 1331, 1337 and 1343, and has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

4. Venue is over this matter is proper in the United States District Court, Eastern District of New York pursuant to 28 U.S.C. § 1391(b) and (c) because Defendants conduct business in this District and the acts and omissions giving rise to the claims herein allegedly took place in this District.

PARTIES

PLAINTIFF

5. Plaintiff is a resident of Kings County, New York, and a former employee of Defendants.

DEFENDANTS

Corporate Defendant

6. Defendant Corp. is a domestic business corporation organized under the laws of New York, with a principal place of business and address for service of process located at 89 Steuben Street, Brooklyn, New York 11205.

7. Upon information and belief, Defendant Corp. is a business engaged in interstate commerce that has gross revenue in excess of five hundred thousand dollars (\$500,000) per year.

8. Upon information and belief, Defendant Corp. engages in interstate commerce and purchases, handles, and/or sells goods that are transported to and from other states during the relevant times.

9. At all relevant times, the work performed by Plaintiff was directly essential to the business operated by Defendant Corp.

Owner / Operator Defendants

10. Defendant Quach is the Chief Executive Officer of Defendant Corp., according to the New York Department of State.

11. Upon information and belief, Defendant Tran is the President of Defendant Corp.

12. Upon information and belief, Defendant Chan is the owner of Defendant Corp.

13. At all relevant times, Defendants knowingly and willfully failed to pay Plaintiff his lawfully earned overtime wages in direct contravention of the FLSA and NYLL.

14. Plaintiff has fulfilled all conditions precedent to the institution of this action and/or such conditions have been waived.

STATEMENT OF FACTS

15. On or about November 2004, Plaintiff was hired by Defendants. Plaintiff was initially hired as a general worker and ultimately became a noodle press operator.

16. Plaintiff worked for Defendants until June 18, 2014, when a work-related injury forced him to permanently leave work.

17. During his employment with Defendant Corp., Plaintiff worked six (6) days per week, typically Monday to Saturday from 7:00 p.m. to 4:00 a.m. Plaintiff worked fifty-four (54) hours per week.

18. During the relevant time period, Plaintiff was paid a “salary” of one thousand nine hundred dollars (\$1,900) per month.

19. During the relevant time period, Plaintiff was paid by both check and cash. The check was for approximately one thousand two hundred twenty dollars (\$1,220), and the remaining money of approximately six hundred eighty dollars (\$680) was paid in cash.

20. Plaintiff was paid monthly, as opposed to weekly as required under New York State Law.

21. Plaintiff was given a short meal break. Despite New York State regulations applicable to night workers that require a one-hour meal break in the middle of the shift, Plaintiff was often not even afforded thirty minutes.

22. On April 9, 2011, the New York State Wage Theft Prevention Act was signed. However, Plaintiff never received proper wage statements as required under the NYLL.

23. Plaintiff did not receive any notice as to whether or not Defendants were taking any deductions from his paycheck and if so, for what reasons and how much was deducted.

24. Defendants unlawfully failed to pay Plaintiff one-and-one-half times the federal and state minimum wage for hours Plaintiff worked in excess of forty (40) hours per week.

25. During the relevant period, the NYLL required employers to provide written notice to employees of, *inter alia*, their rate of pay and regular pay day. See, NYLL § 195(I). Defendants failed to properly notify Plaintiff of his hourly rate of pay and overtime rate of pay, in direct violation of the NYLL.

26. Defendants knowingly and willfully operated their business with a policy of not paying federal and New York State overtime hours.

27. Defendants knowingly and willfully operated their business with a policy of not providing proper wage statements as required under the NYLL.

28. Defendants did not record or track Plaintiff's hours of work.

29. Defendants failed to properly disclose or apprise Plaintiff of his rights under the FLSA. Upon information and belief, there were no notices displayed at the place of employment to disclose or apprise employees of their rights under the FLSA or NYLL.

30. Defendants knowing and willfully paid Plaintiff and similarly situated employees either partially or wholly in cash.

31. Upon information and belief, Defendants have failed to keep records in accordance with 12 NYCRR § 142-2.6.

32. As a direct and proximate result of Defendants' willful disregard of the FLSA and the NYLL, Plaintiff is entitled to liquidated damages under the FLSA for damages sustained over the past three years under the FLSA, and damages for the past six year under the NYLL.

33. Plaintiff retained Cuccia & Campise, PLLC to represent him in this ligation and has agreed to pay the firm a reasonable fee for its services.

COLLECTIVE ACTION ALLEGATIONS

34. Plaintiff brings this action individually and as a class representative on behalf of all other similarly situated current and former machine operators, who are or were employed by Defendants for up to the last six (6) years, through entry of judgement in this case, and who were not compensated overtime compensation for all hours worked in excess of forty (40) hours per week, pursuant to 29 U.S.C. § 216(b) (the "FLSA Collective").

35. Plaintiff has consented in writing to be a part of this action pursuant to 29 U.S.C. § 216(b). Plaintiff's signed consent form is attached as Exhibit A.

36. As this case proceeds, it is likely that other individuals will file consent forms and join as "opt-in" plaintiffs.

37. As described in the preceding paragraphs, during the applicable statutory period, Plaintiff and members of the proposed FLSA Collective routinely worked in excess of forty (40) hours in a workweek without receiving overtime compensation for their overtime hours worked.

38. Defendants willfully engaged in a pattern of violating the FLSA by knowingly failing to pay its machine operators overtime compensation and classifying them as exempt from FLSA overtime pay provisions, despite knowing that their machine operators were working in excess of forty (40) hours in a workweek and were performing non-exempt work. Defendants' conduct constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255.

39. Defendants are liable under the FLSA for failing to properly compensate Plaintiff and members of the proposed FLSA Collective for overtime. Accordingly, notice of this action should be sent to the FLSA Collective. There are numerous similarly-situated current and former employees of Defendants who have suffered from Defendants' practices and who would benefit from the issuance of court-supervised notice of this lawsuit and the opportunity to join. Those similarly situated employees are known to Defendants and are readily identifiable through Defendants' records.

CLAIMS FOR RELIEF

**FIRST CLAIM FOR RELIEF
(FLSA Overtime Violation, 29 U.S.C. §§ 201, *et seq.*)**

40. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

41. At all relevant times, upon information and belief, Defendants were and continue to be an employer(s) engaged in interstate commerce and/or the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

42. At all relevant times, Defendants employed Plaintiff within the meaning of the FLSA.

43. Upon information and belief, Defendant Corp. had gross revenues in excess of five hundred thousand dollars (\$500,000).

44. At all relevant times, Defendants had a policy and practice of willfully failing and refusing to pay overtime compensation at the statutory rate of time and one-half to Plaintiff for his hours worked in excess of forty (40) hours per week.

45. Defendants failed to pay Plaintiff overtime compensation in the lawful amount for hours worked in excess of the maximum hours provided for it in the FLSA.

46. Defendants knew of and/or demonstrated a willful disregard for the provisions of the FLSA as evidenced by their failure to compensate Plaintiff, at the statutory rate of time and one-half for his hours worked in excess of forty (40) hours per week when Defendants knew or should have known such was due.

SECOND CLAIM FOR RELIEF

(New York State Overtime Violations, NYLL §§ 650, *et seq.*, 12 NYCRR § 142-2.2)

47. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

48. It is unlawful under New York law for an employer to permit an employee to work without paying overtime wages for all hours worked in excess of forty (40) hours in any workweek.

49. Throughout Plaintiff's employment, Defendants willfully, regularly, and repeatedly failed to pay Plaintiff at the required overtime rate: one-and-one-half times the minimum wage rate for hours worked in excess of forty (40) hours per week.

50. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained damages, including loss of earnings in an amount to be established at trial, liquidated damages, prejudgment interest, and attorney's fees and costs pursuant to NYLL § 663.

THIRD CLAIM FOR RELIEF

(New York State Statement to Employee Violation, 12 NYCRR § 142-2.7)

51. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

52. Defendants did not provide Plaintiff with a statement listing hours worked, rates paid, gross wages as required by 12 NYCRR § 142-2.7.

53. As a result of Defendants' unlawful conduct, Plaintiff sustained damages, including loss of earnings in an amount to be established at trial, liquidated damages, prejudgment interest, costs and attorney's fees and costs pursuant to state law.

FOURTH CLAIM FOR RELIEF
(New York State Notice to Employee Violation, NYLL § 195)

54. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs as if fully set forth herein.

55. Defendants intentionally failed to provide notice to employees in violation of NYLL § 195, which requires all employers to provide written notice in the employee's primary language about the terms and conditions of employment related to rate of pay, regular pay cycle and rate of overtime pay every year.

56. Defendants have failed to make a good faith effort to comply with the NYLL with respect to Plaintiff's compensation.

57. Due to Defendants' violations of the NYLL, Plaintiff is entitled to recover from Defendants one hundred dollars (\$100) per week for each week of the violation together with costs and attorney's fees pursuant to NYLL § 198.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- A. An award of unpaid overtime wages due under both the FLSA and NYLL;
- B. Up to two thousand five hundred dollars (\$2,500) for Defendants' failure to provide a paystub that lists employee's name, employer's name, employer's address and telephone number, employee's rate of pay, any deductions made from employee's gross and net wages for each pay day;
- C. An award of liquidated damages, according to proof, including unpaid minimum wages, unpaid overtime wages, plus interest, to be paid by Defendants;
- D. An award of attorney's fees and costs, including fees pursuant to 29 U.S.C. §§ 201 *et seq.*, NYLL § 663, and other applicable statutes;

E. An award of pre-judgment and post-judgment interest as provided by law;

F. Provided that if any amounts remain unpaid upon the expiration of ninety (90) days following the issuance of judgment, or ninety (90) days after the expiration of the time to appeal and no appeal is then pending, whichever is later, the total amount of judgment will automatically increase by fifteen percent (15%) as required by NYLL § 198(4); and

G. Such other and further legal and equitable relief as this Court deems necessary, just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury on all issues so triable as of right by jury.

Dated: October 25, 2016
New York, NY

CUCCIA & CAMPISE, PLLC
Attorneys for Plaintiff

By: /s/ Michael J. Campise
Michael J. Campise, Esq.
100 Lafayette Street, Suite 201
New York, NY 10013
Tel: (212) 966-7775
Fax: (212) 966-0338
Mike@nycclawfirm.com

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
HOA CHI HOANG, *individually and on behalf*
of all others similarly situated,

Civil Action No.

Plaintiff,

-against-

GOOD TASTE CORP., KIEM QUACH,
TAI QUEN TRAN, and PAK CHAN,

Defendants.

-----X

CONSENT TO BECOME PARTY PLAINTIFF

By my signature below, I hereby authorize the filing and prosecution of claims in my name and on my behalf to contest the failure of Defendants to pay me overtime wages and/or minimum wages as required under state and/or federal law, including the Fair Labor Standards Act, as amended, and also authorize the filing of this consent in the instant action challenging such conduct.

Dated: *October 25, 2016*

Hoa Chi Hoang

Hoa Chi Hoang

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

HOA CHI HOANG, individually and on behalf of all
others similarly situated

Plaintiff(s)

v.

GOOD TASTE CORP., KIEM QUACH, TAI QUEN
TRAN, and PAK CHAN

Defendant(s)

Civil Action No. 16-cv-5933

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Good Taste Corp., Kiem Quach,
Tai Quen Tran, and Pak Chan
89 Steuben Street
Brooklyn, NY 11205

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are: Michael J. Campise, Esq.
Cuccia & Campise, PLLC
100 Lafayette Street, Suite 201
New York, NY 10013

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 16-cv-5933

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Hoa Chi Hoang, individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff New York
(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael J. Campise, Esq., Cuccia & Campise, PLLC
100 Lafayette Street, Suite 201, New York, NY 10013
(212) 966-7775

DEFENDANTS
Good Taste Corp., Kiem Quach, Tai Quen Tran, and Pak Chan
County of Residence of First Listed Defendant Kings
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. §§ 201, et. seq.
Brief description of cause:
Failure to pay overtime wages

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 10/25/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael J. Campise

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Michael J. Campise, Esq., counsel for Hoa Chi Hoang, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? No

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s/ Michael J. Campise

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FLSA Class Action Filed Against Good Taste Corp.](#)
