

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

CLAUDIA PORTILLO  
8757 Georgia Avenue, Suite 400  
Silver Spring, Maryland 20910

*And Behalf of Herself and  
Others Similarly Situated*

PLAINTIFF,

v.

TANDOORI NIGHTS, LLC  
7137 Little River Turnpike  
Annandale, Virginia 22003

SERVE: Amjad Khanzada  
3813 Tall Oak Court  
Annandale, Virginia 22003

DEFENDANT

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Case No:

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**COLLECTIVE ACTION COMPLAINT**

Plaintiff Claudia Portillo (“Plaintiff”), by and through undersigned counsel, on behalf of himself and all other similarly situated individuals, hereby submits her Collective Action Complaint against Defendant Tandoori Nights, LLC (“Defendant”), to recover unpaid wages, liquidated damages, reasonable attorney’s fees and costs under Section 16(b) of the Federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201 *et seq.* (hereinafter “FLSA”) as set forth below.

**PARTIES AND JURISDICTION**

1. Plaintiff is an adult resident of the Commonwealth of Virginia and by acting as named plaintiff in this action does hereby affirm her consent to participate as a plaintiff and a collective action class member in an action under the FLSA and for relief as set forth herein.

2. Defendant is a limited liability company formed under the laws of the Commonwealth of Virginia.

3. At all times relevant to this action, Defendant has operated as a restaurant serving a blend of authentic Indian and Mexican food and also operating as a night club featuring music, dancing, and karaoke.

4. At all times relevant to this action, Defendant had gross annual revenues exceeding \$500,000.00.

5. At all times relevant to this action, Defendant used in its business operations goods and materials (in particular food, drinks, and streaming music) that were used and handled by Plaintiff and other employees in the course of their work duties that originated from outside the Commonwealth of Virginia and otherwise passed through interstate commerce for the purpose of use in commerce.

6. At all times, Defendant legally qualified as Plaintiff's employer under FLSA.

7. Jurisdiction and Venue is proper in this Court because it is predicated upon a Federal Question and more specifically Plaintiff's cause of action against Defendant seeking relief under the FLSA arising out of acts and omissions occurring primarily in and around Annandale, Virginia.

### **FACTS**

8. Plaintiff - - often using the pseudonym "Fabrica" - - was employed as a waitress at the Defendant's Tandoori Nights Restaurant and Bar for the period of about June 2017 through about March 2018 (about 42 weeks).

9. While employed, the exact number of hours Plaintiff worked varied from week to week.

10. Typically, Plaintiff worked at or about thirty (30) to forty (40) hours per week.

11. While employed, Defendant paid Plaintiff no wages at all.

12. At no time did Defendant pay Plaintiff direct wages at an hourly rate equal to or above the Federal Minimum Wage (\$7.25 per hour).

13. At no time did Defendant pay Plaintiff direct wages at an hourly rate equal to or above the FLSA "tip credit" rate of \$2.13 per hour.

14. At all times, the only money Plaintiff received for performing employment work duties at Defendant's restaurant and bar was in the form of tips received directly from Defendant's customers.

15. In relation to paying (or failing to pay) Plaintiff, at no time did Defendant comply with any of the FLSA "tip credit" requirements set forth in the FLSA; 29 USC § 203(m).

16. Defendant now owes Plaintiff unpaid minimum wage compensation in the amount of about \$12,500.00, plus FLSA statutory liquidated damages in an equal amount to her unpaid wages, plus recovery of attorney's fees and costs.

### **COLLECTIVE ACTION ALLEGATIONS**

17. During the time period 2017 through the present, Defendant employed and continues to employ more than twenty (20) waitresses at its Tandoori Nights Restaurant and Bar in Annandale, Virginia.

18. Pursuant to its common and class-wide practice, during the time period 2017 through the present, Defendant has paid no wages for hours worked to any of its waitresses at its Tandoori Nights Restaurant and Bar in Annandale, Virginia.

19. Pursuant to its common and class-wide practice, during the time period 2017 through the present, Defendant failed to pay its waitresses at its Tandoori Nights Restaurant and

Bar in Annandale, Virginia direct wages at an hourly rate equal to the Federal Minimum Wage (\$7.25 per hour).

20. Pursuant to its common and class-wide practice, during the time period 2017 through the present, Defendant failed to pay its waitresses at its Tandoori Nights Restaurant and Bar in Annandale, Virginia direct wages at an hourly rate equal to the “tip credit” rate of \$2.13 per hour.

21. Pursuant to its common and class-wide practice, during the time period 2017 through the present, the only money waitresses a Defendant’s Tandoori Nights Restaurant and Bar in Annandale, Virginia received for performing employment work duties at Defendant’s restaurant and bar was in the form of tips received directly from Defendant’s customers.

22. For the time period 2017 through the present, in relation to paying (or failing to pay) waitresses at Defendant’s Tandoori Nights Restaurant and Bar, at no time did Defendant comply with any of the “tip credit” requirements set forth in the FLSA; 29 USC § 203(m).

23. As a consequence of Defendant’s common and class-wide FLSA minimum wage violation Defendant now owes each waitress that performed duties at Defendant’s Tandoori Nights Restaurant and Bar in Annandale Virginia during the period 2017 through the present (1) unpaid FLSA minimum wage compensation; (2) FLSA statutory damages in an equal amount to their unpaid wages; and (3) recovery of their attorney’s fees and costs.

**CAUSES OF ACTION**  
**(Violation of Federal Fair Labor Standards Act)**

24. Plaintiff re-alleges and reasserts each and every allegation set forth above as if each were set forth herein.

25. As set forth above, during the time period June 2017 through March 28, Defendant employed Plaintiff as a waitress at its Tandoori Nights Restaurant and Bar in Annandale, Virginia.

26. As set forth above, during the time period 2017 through the present, Defendant employed more than twenty (20) other waitresses at its Tandoori Nights Restaurant and Bar in Annandale, Virginia.

27. During the period of their employment, Defendant directed Plaintiff and other waitresses to perform food and drink serving and related employment work duties primarily for Defendant's benefit at Defendant's Tandoori Nights Restaurant and Bar in Annandale, Virginia.

28. During the period of their employment, Defendant tracked and had actual knowledge and records of all hours Plaintiff and other waitresses worked at Defendant's Tandoori Nights Restaurant and Bar in Annandale, Virginia.

29. During the period of their employment, Defendant paid no direct wages to Plaintiff or any other waitresses as compensation for performing food and drink serving and related employment work duties primarily for Defendant's benefit at Defendant's Tandoori Nights Restaurant and Bar in Annandale, Virginia.

30. During the period of their employment, Defendant failed to pay Plaintiff and all other waitresses at or above the Federal Minimum Wage Rate for performing food and drink serving and related employment work duties primarily for Defendant's benefit at Defendant's Tandoori Nights Restaurant and Bar in Annandale, Virginia.

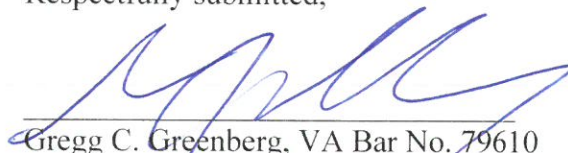
31. At all times, Defendant had actual knowledge of the FLSA wage payment requirements and specifically had actual knowledge that Plaintiff and all other waitresses at the

Tandoori Nights Restaurant and Bar in Annandale, Virginia should have been paid wages at or above the Federal Minimum Wage Rate.

32. Defendant's failure to pay Plaintiff and all other waitresses minimum wage compensation at or about the Federal Minimum Wage Rate was with actual knowledge of illegality and was not a product of good faith or objectively reasonable mistake.

WHEREFORE, Defendant is liable to Plaintiff and each opt-in Plaintiff in the amount of all unpaid wages due and owing in an amount to be proven at trial, plus an equal amount in FLSA liquidated damages, interest (both pre- and post-judgment), reasonable attorney's fees, the costs of this action, and any other further relief the Court deems appropriate.

Respectfully submitted,



Gregg C. Greenberg, VA Bar No. 79610  
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Email: [ggreenberg@zagfirm.com](mailto:ggreenberg@zagfirm.com)

*Counsel for Plaintiff*

JS 44 (Rev. 06/17)

### 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**

Claudia Portillo, On Behalf of Herself and All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff Alexandria, VA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Gregg C. Greenberg, Esq. - Zipin, Amster & Greenberg - 301-587-9373  
8757 Georgia Avenue #400 Silver Spring, MD 20910

**DEFENDANTS**

Tandoori Nights, LLC

County of Residence of First Listed Defendant Fairfax, VA  
(IN U.S. PLAINTIFF CASES ONLY)

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
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

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|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 310 Airplane	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>PERSONAL PROPERTY</b>		<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 385 Property Damage Product Liability	<b>LABOR</b>	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability		<input checked="" type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle			<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 740 Railway Labor Act	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability		<b>PRISONER PETITIONS</b>		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise		<b>Habeas Corpus:</b>			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
	<b>REAL PROPERTY</b>	<input type="checkbox"/> 443 Housing/ Accommodations		<b>IMMIGRATION</b>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 444 Employment	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 462 Naturalization Application	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>Other:</b>			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other			
			<input type="checkbox"/> 550 Civil Rights			
			<input type="checkbox"/> 555 Prison Condition			
			<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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 USC 201, et seq. Failure to pay minimum wage - Collective Action

Brief description of cause:

Failure to Pay Minimum Wage - Collective Action

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS

TBD

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/24/2018

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFF

JUDGE

MAG. JUDGE

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Waitress Sues Tandoori Nights Over Alleged Wage Infractions](#)

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