

MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165
Attorneys for Plaintiffs

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

-----X
ALBA RIVERA and LAURA BOLIVAR
ALZATE, *individually and on behalf of others
similarly situated,*

Plaintiffs,

-against-

TU CASA #2 RESTAURANT CORP. (D/B/A
TU CASA), WILLIAM ALBA SR. , and
WILLIAM ALBA JR. ,

Defendants.

-----X

COMPLAINT

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

ECF Case

Plaintiffs Alba Rivera and Laura Bolivar Alzate, individually and on behalf of others similarly situated (collectively, “Plaintiffs”), by and through their attorneys, Michael Faillace & Associates, P.C., upon their knowledge and belief, and as against Tu Casa #2 Restaurant Corp. (d/b/a Tu Casa), (“Defendant Corporation”), William Alba Sr. and William Alba Jr., (“Individual Defendants”), (collectively, “Defendants”), allege as follows:

NATURE OF ACTION

1. Plaintiffs are former employees of Defendants Tu Casa #2 Restaurant Corp. (d/b/a Tu Casa), William Alba Sr., and William Alba Jr.
2. Defendants own, operate, or control a Spanish and Peruvian restaurant, located at 30-10 Steinway St, Astoria, NY 11103 under the name “Tu Casa”.

3. Upon information and belief, individual Defendants William Alba Sr. and William Alba Jr., serve or served as owners, managers, principals, or agents of Defendant Corporation and, through this corporate entity, operate or operated the restaurant as a joint or unified enterprise.

4. Plaintiffs were employees of Defendants.

5. Plaintiffs were ostensibly employed as servers, bartenders, waitresses, and cashiers. However, they were required to spend a considerable part of their work day performing non-tipped duties, including but not limited to setting up the chairs at the beginning of the shift and putting them back on the tables at the end of the shift, setting the tables with silverware and salt and pepper, bringing fruits, juices, and liquor to the bar from the basement, cleaning the tables, counters, the bar, bottles, sweeping and mopping the bar area and refilling bottles of expensive liquor with cheap liquor(as ordered by defendants), hereafter the (“non-tipped duties”).

6. At all times relevant to this Complaint, Plaintiffs worked for Defendants in excess of 40 hours per week, without appropriate minimum wage, overtime, and spread of hours compensation for the hours that they worked.

7. Rather, Defendants failed to maintain accurate recordkeeping of the hours worked, failed to pay Plaintiffs appropriately for any hours worked, either at the straight rate of pay or for any additional overtime premium.

8. Further, Defendants failed to pay Plaintiffs the required “spread of hours” pay for any day in which they had to work over 10 hours a day.

9. Defendants employed and accounted for Plaintiffs as servers, bartenders, waitresses, and cashiers in their payroll, but in actuality their duties required a significant amount of time spent performing non-tipped duties alleged above.

10. Regardless, at all relevant times, Defendants paid Plaintiffs at the lowered tip-credited rate.

11. However, under both the FLSA and NYLL, Defendants were not entitled to take a tip credit because Plaintiffs' non-tipped duties exceeded 20% of each workday, or 2 hours per day, whichever is less in each day. 12 N.Y. C.R.R. §146.

12. Upon information and belief, Defendants employed the policy and practice of disguising Plaintiffs' actual duties in payroll records by designating them as servers, bartenders, waitresses, and cashiers instead of non-tipped employees. This allowed Defendants to avoid paying Plaintiffs at the minimum wage rate and enabled them to pay them at the lower tip-credited rate.

13. Defendants' conduct extended beyond Plaintiffs to all other similarly situated employees.

14. At all times relevant to this Complaint, Defendants maintained a policy and practice of requiring Plaintiffs and other employees to work in excess of forty (40) hours per week without providing the minimum wage and overtime compensation required by federal and state law and regulations.

15. Plaintiffs now bring this action on behalf of themselves, and other similarly situated individuals, for unpaid minimum and overtime wages pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* ("FLSA"), and for violations of the N.Y. Labor Law §§ 190 *et seq.* and 650 *et seq.* (the "NYLL"), and the "spread of hours" and overtime wage orders of the New York Commissioner of Labor codified at N.Y. COMP. CODES R. & REGS. tit. 12, § 146-1.6 (herein the "Spread of Hours Wage Order"), including applicable liquidated damages, interest, attorneys' fees and costs.

16. Plaintiffs seek certification of this action as a collective action on behalf of themselves, individually, and all other similarly situated employees and former employees of Defendants pursuant to 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the FLSA, and supplemental jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367(a).

18. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) because all, or a substantial portion of, the events or omissions giving rise to the claims occurred in this district, Defendants maintain their corporate headquarters and offices within this district, and Defendants operate a Spanish and Peruvian restaurant located in this district. Further, Plaintiffs were employed by Defendants in this district.

PARTIES

Plaintiffs

19. Plaintiff Alba Rivera ("Plaintiff Rivera" or "Ms. Rivera") is an adult individual residing in Queens County, New York. Plaintiff Rivera was employed by Defendants at Tu Casa from approximately June 2012 until on or about August 17, 2017.

20. Plaintiff Laura Bolivar Alzate ("Plaintiff Bolivar" or "Ms. Bolivar") is an adult individual residing in Queens County, New York. Plaintiff Bolivar was employed by Defendants at Tu Casa Restaurant from approximately September 2013 until on or about November 21, 2017.

Defendants

21. At all relevant times, Defendants owned, operated, or controlled a Spanish and Peruvian restaurant, located at 30-10 Steinway St, Astoria, NY 11103 under the name "Tu Casa".

22. Upon information and belief, Tu Casa #2 Restaurant Corp. (d/b/a Tu Casa) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 30-10 Steinway St, Astoria, NY 11103.

23. Defendant William Alba Sr. is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant William Alba Sr. is sued individually in his capacity as owner, officer and/or agent of Defendant Corporation. Defendant William Alba Sr. possesses operational control over Defendant Corporation, an ownership interest in Defendant Corporation, and controls significant functions of Defendant Corporation. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

24. Defendant William Alba Jr. is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant William Alba Jr. is sued individually in his capacity as owner, officer and/or agent of Defendant Corporation. Defendant William Alba Jr. possesses operational control over Defendant Corporation, an ownership interest in Defendant Corporation, and controls significant functions of Defendant Corporation. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

FACTUAL ALLEGATIONS

Defendants Constitute Joint Employers

25. Defendants operate a Spanish and Peruvian restaurant located in the Astoria section of Queens in New York City.

26. Individual Defendants, William Alba Sr. and William Alba Jr., possess operational control over Defendant Corporation, possess ownership interests in Defendant Corporation, and control significant functions of Defendant Corporation.

27. Defendants are associated and joint employers, act in the interest of each other with respect to employees, pay employees by the same method, and share control over the employees.

28. Each Defendant possessed substantial control over Plaintiffs' (and other similarly situated employees') working conditions, and over the policies and practices with respect to the employment and compensation of Plaintiffs, and all similarly situated individuals, referred to herein.

29. Defendants jointly employed Plaintiffs (and all similarly situated employees) and are Plaintiffs' (and all similarly situated employees') employers within the meaning of 29 U.S.C. 201 *et seq.* and the NYLL.

30. In the alternative, Defendants constitute a single employer of Plaintiffs and/or similarly situated individuals.

31. Upon information and belief, Individual Defendants, William Alba Sr. and William Alba Jr. operate Defendant Corporation as either an alter ego of themselves and/or fail to operate Defendant Corporation as an entity legally separate and apart from themselves, by among other things:

- a) failing to adhere to the corporate formalities necessary to operate Defendant Corporation as a Corporation,

- b) defectively forming or maintaining the corporate entity of Defendant Corporation, by, amongst other things, failing to hold annual meetings or maintaining appropriate corporate records,
- c) transferring assets and debts freely as between all Defendants,
- d) operating Defendant Corporation for their own benefit as the sole or majority shareholders,
- e) operating Defendant Corporation for their own benefit and maintaining control over this corporation as a closed Corporation,
- f) intermingling assets and debts of their own with Defendant Corporation,
- g) diminishing and/or transferring assets of Defendant Corporation to avoid full liability as necessary to protect their own interests, and
- h) Other actions evincing a failure to adhere to the corporate form.

32. At all relevant times, Defendants were Plaintiffs' employers within the meaning of the FLSA and New York Labor Law. Defendants had the power to hire and fire Plaintiffs, controlled the terms and conditions of employment, and determined the rate and method of any compensation in exchange for Plaintiffs' services.

33. In each year from 2012 to 2017, Defendants, both separately and jointly, had a gross annual volume of sales of not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated).

34. In addition, upon information and belief, Defendants and/or their enterprise were directly engaged in interstate commerce. As an example, numerous items that were used in the restaurant on a daily basis are goods produced outside of the State of New York.

Individual Plaintiffs

35. Plaintiffs are former employees of Defendants who ostensibly were employed as servers, bartenders, waitresses, and cashiers. However, they spent over 20% of each shift performing the non-tipped duties described above.

36. Plaintiffs seek to represent a class of similarly situated individuals under 29 U.S.C. 216(b).

Plaintiff Alba Rivera

37. Plaintiff Rivera was employed by Defendants from approximately June 2012 until on or about August 17, 2017.

38. At all relevant times, Plaintiff Rivera was employed by Defendants to work as a waitress and bartender.

39. However, Plaintiff Rivera also was required to spend a significant portion of her work day performing the non-tipped duties described above.

40. Although Plaintiff Rivera ostensibly was employed as a waitress and bartender, she spent over 20% of each day performing non-tipped work throughout her employment with Defendants.

41. Plaintiff Rivera regularly handled goods in interstate commerce, such as Spanish and Peruvian food, condiments, and supplies necessary to perform her duties as a server.

42. Plaintiff Rivera's work duties required neither discretion nor independent judgment.

43. Throughout her employment with Defendants, Plaintiff Rivera regularly worked in excess of 40 hours per week.

44. From approximately June 2012 until on or about June 2014, Plaintiff Rivera worked from approximately 10:30 a.m. until on or about 11:00 p.m. to 12:00 a.m., three days a week and from approximately 5:00 p.m. until on or about 11:00 p.m. to 12:00 a.m. three days a week (typically

55.5 to 61.5 hours per week).

45. From approximately June 2014 until on or about December 2014, Plaintiff Rivera worked an average of approximately 36 hours per week.

46. From approximately December 2014 until on or about December 2015, Plaintiff Rivera worked a range from approximately 37 to 56 hours per week. Two days out of the week, she worked from approximately 10:30 a.m. until on or about 11:00 p.m.

47. From approximately January 2016 until on or about August 17, 2017, Plaintiff Rivera worked an average range of 37 to 47 hours per week, 4 to 5 days a week. On the occasions when she worked in excess of 40 hours, Defendants would exclude the hours worked over 40 from her paycheck. The schedule in the restaurant, did not reflect the instances where she covered another employee's shift.

48. From approximately June 2012 until on or about June 2014, Plaintiff Rivera was paid her wages in cash.

49. From approximately June 2014 until on or about August 17, 2017, Plaintiff Rivera was paid her wages by check.

50. From approximately June 2012 until on or about February 2014, Plaintiff Rivera was paid a salary of \$25.00 per shift.

51. From approximately March 2014 until on or about December 2014, Plaintiff Rivera was paid \$5.00 per hour.

52. From approximately January 2015 until on or about December 2015, Plaintiff Rivera was paid \$5.50 per hour.

53. From approximately January 2016 until on or about August 17, 2017, Plaintiff Rivera was paid \$7.50 per hour.

54. Plaintiff Rivera's wages did not vary regardless of how many additional hours she worked in a week.

55. In fact, approximately two times a month, Defendants would host parties at the location, forcing Plaintiff Rivera to stay until 3:00 a.m., and did not compensate her for the additional time they required her to work.

56. Defendants never granted Plaintiff Rivera any break or meal periods of any length.

57. Plaintiff Rivera was never notified by Defendants that her tips would be included as an offset for wages.

58. Defendants did not account for these tips in any daily, weekly or other accounting of Plaintiff Rivera's wages.

59. Defendants withheld a portion of Plaintiff Rivera's tips.

60. Further, Defendants required Plaintiff Rivera and all other tipped employees to share their tips with other employees.

61. Prior to January 2017, Plaintiff Rivera was not required to keep track of her time, nor to her knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected her actual hours worked.

62. Defendants never provided Plaintiff Rivera with any accurate document or other statement accounting for her actual hours worked, or setting forth the rate of pay for all of her hours worked.

63. Defendants never provided Plaintiff Rivera with an accurate statement of wages, as required by NYLL 195(3).

64. No notification, either in the form of posted notices, or other means, was ever given to Plaintiff Rivera regarding wages as required under the FLSA and NYLL.

65. Defendants never gave any notice to Plaintiff Rivera, in English and in Spanish (Plaintiff Rivera's primary language), of her rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

Plaintiff Laura Bolivar Alzate

66. Plaintiff Bolivar was employed by Defendants from approximately September 2013 until on or about November 21, 2017.

67. Defendants ostensibly employed Plaintiff Bolivar as a waitress, cashier, and bartender.

68. However, Plaintiff Bolivar was also required to spend a significant portion of her work day performing the non-tipped duties described above.

69. Although Plaintiff Bolivar ostensibly was employed as a waitress, cashier, and bartender, she spent over 20% of each day performing non-tipped work throughout her employment with Defendants.

70. Plaintiff Bolivar regularly handled goods in interstate commerce, such as food and other supplies produced outside the State of New York.

71. Plaintiff Bolivar's work duties required neither discretion nor independent judgment.

72. Throughout her employment with Defendants, Plaintiff Bolivar regularly worked in excess of 40 hours per week.

73. From approximately September 2013 until on or about December 2013, Plaintiff Bolivar worked as a waitress, cashier, and bartender from approximately 5:00 p.m. until on or about 11:00 p.m., Mondays and Thursdays and from approximately 5:00 p.m. until on or about 2:00 a.m., Fridays through Sundays (typically 39 hours per week).

74. From approximately March 2014 until on or about February 2016, Plaintiff Bolivar worked as a waitress, cashier, and bartender from approximately 11:00 a.m. until on or about 5:00 p.m. as a cashier, Mondays and Fridays, from approximately 5:00 p.m. until on or about 12:00 a.m. as a cashier, Sundays, from approximately 5:00 p.m. until on or about 11:00 p.m. as a waitress, Mondays and Tuesdays, and from approximately 5:00 p.m. until on or about 2:00 a.m. as a waitress, Fridays and Saturdays (typically 49 hours per week).

75. From approximately February 2016 until on or about April 2017, Plaintiff Bolivar worked as a waitress, cashier, and bartender from approximately 11:00 a.m. until on or about 5:00 p.m. as a cashier, Mondays, Tuesdays, Thursdays, and Fridays, from approximately 5:00 p.m. until on or about 11:00 p.m. as a waitress, Mondays and Tuesdays, and from approximately 5:00 p.m. until on or about 2:00 a.m. as a waitress, Fridays and Saturdays (typically 54 hours per week).

76. From approximately April 2017 until on or about November 21, 2017, Plaintiff Bolivar worked as a waitress, cashier, and bartender from approximately 5:00 p.m. until on or about 11:00 p.m., Mondays, Tuesdays, and Thursdays and from approximately 5:00 p.m. until on or about 2:00 a.m., Fridays and Saturdays (typically 36 hours per week).

77. From approximately September 2013 until on or about July 2015, Defendants paid Plaintiff Bolivar her wages in cash.

78. From approximately August 2015 until on or about April 2017, Defendants paid Plaintiff Bolivar her wages in a combination of check and cash.

79. From approximately April 2017 until on or about November 21, 2017, Defendants paid Plaintiff Bolivar her wages by check.

80. From approximately September 2013 until on or about December 2013, Defendants paid Plaintiff Bolivar a fixed salary of \$25 per shift.

81. From approximately March 2014 until on or about February 2016, Defendants paid Plaintiff Bolivar \$5.50 per hour as a waitress, and \$11 per hour as a cashier.

82. From approximately February 2016 until on or about April 2017, Defendants paid Plaintiff Bolivar \$7.50 per hour as a waitress and \$12 per hour as a cashier.

83. From approximately April 2017 until on or about November 21, 2017, Defendants paid Plaintiff Bolivar \$7.50 per regular and overtime hours.

84. Plaintiff Bolivar's pay did not vary even when she was required to stay later or work a longer day than her usual schedule.

85. For example, Defendants required Plaintiff Bolivar to work an additional 3 hours past her scheduled departure time twice a month, and either did not pay her for the additional time she worked or paid her much less than what they had agreed to pay her.

86. Defendants never granted Plaintiff Bolivar any breaks or meal periods of any kind.

87. Plaintiff Bolivar was never notified by Defendants that her tips were being included as an offset for wages.

88. Defendants did not account for these tips in any daily or weekly accounting of Plaintiff Bolivar's wages.

89. Defendants withheld a portion of Plaintiff Bolivar's tips.

90. Further, Defendants required Plaintiff Bolivar and all other tipped employees to share their tips with other employees.

91. Prior to January 2017, Plaintiff Bolivar was not required to keep track of her time, nor to her knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected her actual hours worked.

92. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Bolivar regarding overtime and wages under the FLSA and NYLL.

93. Defendants did not provide Plaintiff Bolivar an accurate statement of wages, as required by NYLL 195(3).

94. In fact, Defendants adjusted Plaintiff Bolivar's paystubs so that they reflected inaccurate wages and hours worked.

95. Defendants did not give any notice to Plaintiff Bolivar, in English and in Spanish (Plaintiff Bolivar's primary language), of her rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

96. Defendants required Plaintiff Bolivar to purchase "tools of the trade" with her own funds—including uniforms such as polo shirts, button down shirts, pants and shoes.

Defendants' General Employment Practices

97. At all times relevant to this Complaint, Defendants maintained a policy and practice of requiring Plaintiffs (and all similarly situated employees) to work in excess of 40 hours a week without paying them appropriate minimum wage, spread of hours pay, and overtime compensation as required by federal and state laws.

98. Plaintiffs were victims of Defendants' common policy and practices which violate their rights under the FLSA and New York Labor Law by, *inter alia*, not paying them the wages they were owed for the hours they worked...

99. Defendants' pay practices resulted in Plaintiffs not receiving payment for all their hours worked, and resulting in Plaintiffs' effective rate of pay falling below the required minimum wage rate.

100. Defendants habitually required Plaintiffs to work additional hours beyond their regular shifts but did not provide them with any additional compensation.

101. Defendants willfully disregarded and purposefully evaded recordkeeping requirements of the FLSA and NYLL by failing to maintain accurate and complete timesheets and payroll records.

102. Defendants' time keeping system did not reflect the actual hours that Plaintiffs worked.

103. Defendants required all servers, bartenders, waitresses, and cashiers to perform general non-tipped tasks in addition to their primary duties as servers, bartenders, waitresses, and cashiers. These Plaintiffs and all similarly situated employees, ostensibly were employed as tipped employees by Defendants, although their actual duties included a significant amount of time spent performing non-tipped duties.

104. These Plaintiffs and all other tipped workers were paid at the lowered tip-credit rate by Defendants.

105. However, under state law, Defendants were not entitled to a tip credit because the tipped worker's and these Plaintiffs' non-tipped duties exceeded 20% of each workday (or 2 hours a day, whichever is less) (12 N.Y.C.R.R. § 146).

106. New York State regulations provide that an employee cannot be classified as a tipped employee on any day in which he or she has been assigned to work in an occupation in which tips are not customarily received. (12 N.Y.C.R.R. §§137-3.3 and 137-3.4). Similarly, under federal regulation 29 C.F.R. §531.56(e), an employer may not take a tip credit for any employee time if that time is devoted to a non-tipped occupation.

107. The servers, bartenders, waitresses, cashiers, and bartenders' duties were not incidental to their occupation as tipped workers, but instead constituted entirely unrelated general restaurant work with duties, including the non-tipped duties described above.

108. In violation of federal and state law as codified above, Defendants classified these Plaintiffs and other tipped workers as tipped employees, and paid them at a rate that was at the lowered tip-credit rate when they should have classified them as non-tipped employees and paid them at the minimum wage rate.

109. Defendants failed to inform Plaintiffs who received tips that Defendants intended to take a deduction against Plaintiffs' earned wages for tip income, as required by the NYLL before any deduction may be taken.

110. Defendants failed to inform Plaintiffs who received tips, that their tips were being credited towards the payment of the minimum wage.

111. Defendants failed to maintain a record of tips earned by Plaintiffs who worked as servers, bartenders, waitresses, and cashiers for the tips they received.

112. Plaintiffs were paid their wages in cash, by check, and in a combination of check and cash.

113. Defendants failed to post at the workplace, or otherwise provide to employees, the required postings or notices to employees regarding the applicable wage and hour requirements of the FLSA and NYLL.

114. Upon information and belief, these practices by Defendants were done willfully to disguise the actual number of hours Plaintiffs (and similarly situated individuals) worked, and to avoid paying Plaintiffs properly for their full hours worked.

115. Defendants engaged in their unlawful conduct pursuant to a corporate policy of minimizing labor costs and denying employees compensation by knowingly violating the FLSA and NYLL.

116. Defendants' unlawful conduct was intentional, willful, in bad faith, and caused significant damages to Plaintiffs and other similarly situated former workers.

117. Defendants failed to provide Plaintiffs and other employees with accurate wage statements at the time of their payment of wages, containing: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked; and the number of overtime hours worked, as required by NYLL §195(3).

118. Defendants failed to provide Plaintiffs and other employees, at the time of hiring and on or before February 1 of each subsequent year, a statement in English and the employees' primary language, containing: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; and the telephone number of the employer, as required by New York Labor Law §195(1).

FLSA COLLECTIVE ACTION CLAIMS

119. Plaintiffs bring their FLSA minimum wage, overtime compensation, and liquidated damages claims as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf

of all similarly situated persons (the “FLSA Class members”), i.e., persons who are or were employed by Defendants or any of them, on or after the date that is three years before the filing of the complaint in this case (the “FLSA Class Period”).

120. At all relevant times, Plaintiffs and other members of the FLSA Class were similarly situated in that they had substantially similar job requirements and pay provisions, and have been subject to Defendants’ common practices, policies, programs, procedures, protocols and plans including willfully failing and refusing to pay them the required minimum wage, overtime pay at a one and one-half their regular rates for work in excess of forty (40) hours per workweek under the FLSA, and willfully failing to keep records required by the FLSA.

121. The claims of Plaintiffs stated herein are similar to those of the other employees.

FIRST CAUSE OF ACTION

VIOLATION OF THE MINIMUM WAGE PROVISIONS OF THE FLSA

122. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

123. At all times relevant to this action, Defendants were Plaintiffs’ employers within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203(d). Defendants had the power to hire and fire Plaintiffs (and the FLSA Class Members), controlled the terms and conditions of their employment, and determined the rate and method of any compensation in exchange for their employment.

124. At all times relevant to this action, Defendants were engaged in commerce or in an industry or activity affecting commerce.

125. Defendants constitute an enterprise within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203 (r-s).

126. In violation of 29 U.S.C. § 206(a), Defendants failed to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate.

127. Defendants' failure to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate was willful within the meaning of 29 U.S.C. § 255(a).

128. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

SECOND CAUSE OF ACTION

VIOLATION OF THE OVERTIME PROVISIONS OF THE FLSA

129. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

130. Defendants, in violation of 29 U.S.C. § 207(a)(1), failed to pay Plaintiffs (and the FLSA Class members) overtime compensation at a rate of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a work week.

131. Defendants' failure to pay Plaintiffs (and the FLSA Class members), overtime compensation was willful within the meaning of 29 U.S.C. § 255(a).

132. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

THIRD CAUSE OF ACTION

VIOLATION OF THE NEW YORK MINIMUM WAGE ACT

133. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

134. At all times relevant to this action, Defendants were Plaintiffs' employers within the meaning of the N.Y. Lab. Law §§ 2 and 651. Defendants had the power to hire and fire Plaintiffs, controlled the terms and conditions of their employment, and determined the rates and methods of any compensation in exchange for their employment.

135. Defendants, in violation of NYLL § 652(1) and the supporting regulations of the New York State Department of Labor, paid Plaintiffs less than the minimum wage.

136. Defendants' failure to pay Plaintiffs the minimum wage was willful within the meaning of N.Y. Lab. Law § 663.

137. Plaintiffs were damaged in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

VIOLATION OF THE OVERTIME PROVISIONS

OF THE NEW YORK STATE LABOR LAW

138. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

139. Defendants, in violation of N.Y. Lab. Law § 190 *et seq.*, and supporting regulations of the New York State Department of Labor, failed to pay Plaintiffs overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a work week.

140. Defendants' failure to pay Plaintiffs overtime compensation was willful within the meaning of N.Y. Lab. Law § 663.

141. Plaintiffs were damaged in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

VIOLATION OF THE SPREAD OF HOURS WAGE ORDER

OF THE NEW YORK COMMISSIONER OF LABOR

142. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

143. Defendants failed to pay Plaintiffs one additional hour's pay at the basic minimum wage rate before allowances for each day Plaintiffs' spread of hours exceeded ten hours in violation of NYLL §§ 650 *et seq.* and 12 N.Y.C.R.R. §§ 146-1.6.

144. Defendants' failure to pay Plaintiffs an additional hour's pay for each day Plaintiffs' spread of hours exceeded ten hours was willful within the meaning of NYLL § 663.

145. Plaintiffs were damaged in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

VIOLATION OF THE NOTICE AND RECORDKEEPING

REQUIREMENTS OF THE NEW YORK LABOR LAW

146. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

147. Defendants failed to provide Plaintiffs with a written notice, in English and in Spanish (Plaintiffs' primary language), containing: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; and the telephone number of the employer, as required by NYLL §195(1).

148. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

SEVENTH CAUSE OF ACTION

VIOLATION OF THE WAGE STATEMENT PROVISIONS

OF THE NEW YORK LABOR LAW

149. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

150. With each payment of wages, Defendants failed to provide Plaintiffs with an accurate statement listing each of the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and

basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked; and the number of overtime hours worked, as required by NYLL 195(3).

151. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

EIGHTH CAUSE OF ACTION

UNLAWFUL DEDUCTIONS FROM TIPS

IN VIOLATION OF THE NYLL

152. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

153. At all relevant times, Defendants were Plaintiffs' employers within the meaning of the N.Y. Lab. Law §§ 2 and 651.

154. New York State Labor Law § 196-d prohibits any employer or his agents, including owners and managers, from demanding or accepting, directly or indirectly, any part of the gratuities received by an employee, or retaining any part of a gratuity, or any charge, purported to be a gratuity for an employee.

155. Defendants unlawfully misappropriated a portion of Plaintiffs' (and the FLSA class members) tips that were received from customers.

156. Defendants unlawfully required Plaintiffs and the FLSA class members to share part of the gratuities they received with employees other than waiters, servers, bussers, or similar employees, in violation of NYLL § 196-d and supporting regulations.

157. Defendants knowingly and intentionally retained a portion of Plaintiffs' tips in violations of the NYLL and supporting Department of Labor Regulations.

158. Plaintiff (and the FLSA class members) were damaged in an amount to be determined at trial.

NINTH CAUSE OF ACTION

RECOVERY OF EQUIPMENT COSTS

159. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

160. Defendants required Plaintiff Bolivar to pay, without reimbursement, the costs and expenses for purchasing and maintaining equipment and “tools of the trade” required to perform her jobs, further reducing her wages in violation of the FLSA and NYLL. 29 U.S.C. § 206(a); 29 C.F.R. § 531.35; N.Y. Lab. Law §§ 193 and 198-b.

161. Plaintiff Bolivar was damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants by:

(a) Designating this action as a collective action and authorizing prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all putative class members apprising them of the pendency of this action, and permitting them to promptly file consents to be Plaintiffs in the FLSA claims in this action;

(b) Declaring that Defendants violated the minimum wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA Class members;

(c) Declaring that Defendants violated the overtime wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA Class members;

(d) Declaring that Defendants violated the recordkeeping requirements of, and associated rules and regulations under, the FLSA with respect to Plaintiffs' and the FLSA Class members' compensation, hours, wages, and any deductions or credits taken against wages;

(e) Declaring that Defendants' violations of the provisions of the FLSA were willful as to Plaintiffs and the FLSA Class members;

(f) Awarding Plaintiffs and the FLSA Class members damages for the amount of unpaid minimum wage, overtime compensation, and damages for any improper deductions or credits taken against wages under the FLSA as applicable;

(g) Awarding Plaintiffs and the FLSA Class members liquidated damages in an amount equal to 100% of their damages for the amount of unpaid minimum wage and overtime compensation, and damages for any improper deductions or credits taken against wages under the FLSA as applicable pursuant to 29 U.S.C. § 216(b);

(h) Declaring that Defendants violated the minimum wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs;

(i) Declaring that Defendants violated the overtime wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs;

(j) Declaring that Defendants violated the spread-of-hours requirements of the NYLL and supporting regulations as to Plaintiffs;

(k) Declaring that Defendants violated the notice and recordkeeping requirements of the NYLL with respect to Plaintiffs' compensation, hours, wages and any deductions or credits taken against wages;

(l) Declaring that Defendants violated the tip withholding provisions of the New York Labor Law, with respect to Plaintiffs;

(m) Declaring that Defendants' violations of the New York Labor Law were willful as to Plaintiffs;

(n) Awarding Plaintiffs damages for the amount of unpaid minimum wage and overtime compensation, and for any improper deductions or credits taken against wages, as well as awarding spread of hours pay under the NYLL as applicable

(o) Awarding Plaintiffs damages for Defendants' violation of the NYLL notice and recordkeeping provisions, pursuant to NYLL §§198(1-b), 198(1-d);

(p) Awarding Plaintiffs liquidated damages in an amount equal to one hundred percent (100%) of the total amount of minimum wage, overtime compensation, and spread of hours pay shown to be owed pursuant to NYLL § 663 as applicable; and liquidated damages pursuant to NYLL § 198(3);

(q) Awarding Plaintiffs and the FLSA Class members pre-judgment and post-judgment interest as applicable;

(r) Awarding Plaintiffs and the FLSA Class members the expenses incurred in this action, including costs and attorneys' fees;

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

(t) All such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable by a jury.

Dated: New York, New York
December 27, 2017

MICHAEL FAILLACE & ASSOCIATES, P.C.

By: /s/ Michael Faillace
Michael Faillace [MF-8436]
60 East 42nd Street, Suite 4510
New York, New York 10165
Telephone: (212) 317-1200
Facsimile: (212) 317-1620
Attorneys for Plaintiffs

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

November 27, 2017

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre:

Laura Bolivar Alzate

Legal Representative / Abogado:

Michael Faillace & Associates, P.C.

Signature / Firma:

Laura Bolivar Alzate

Date / Fecha:

27 de noviembre

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

November 27, 2017

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

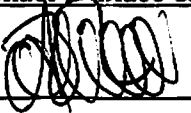
Name / Nombre:

Alba Rivera

Legal Representative / Abogado:

Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

27 de noviembre

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

ALBA RIVERA and LAURA BOLIVAR ALZATE, individually and on behalf of others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael A. Faillace, Michael Faillace & Associates, P.C.
60 East 42nd Suite 4510, New York, NY 10165
Phone: 212-317-1200

DEFENDANTS

TU CASA #2 RESTAURANT CORP. (D/B/A TU CASA), WILLIAM ALBA SR., and WILLIAM ALBA JR.,

County of Residence of First Listed Defendant Queens
(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)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| 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 <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | SOCIAL SECURITY | FEDERAL TAX SUITS |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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 | <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |
| IMMIGRATION | | | | | |
| <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | | | | | |

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Plaintiff seeks unpaid overtime wages pursuant to The Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.
 Brief description of cause:
 unpaid 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: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 12/27/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael Faillace

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 Faillace, counsel for Plaintiff, 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? yes
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

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? N/A

(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 Faillace

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ALBA RIVERA and LAURA BOLIVAR ALZATE,
individually and on behalf of others similarly situated,

Plaintiff(s)

v.

TU CASA #2 RESTAURANT CORP. (D/B/A TU
CASA), WILLIAM ALBA SR. , and WILLIAM ALBA
JR.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Tu Casa #2 Restaurant Corp. (d/b/a/ Tu Casa)
30-10 Steinway St.
Astoria, NY 11103

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 A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ALBA RIVERA and LAURA BOLIVAR ALZATE,
individually and on behalf of others similarly situated,

Plaintiff(s)

v.

TU CASA #2 RESTAURANT CORP. (D/B/A TU
CASA), WILLIAM ALBA SR. , and WILLIAM ALBA
JR.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) William Alba Jr.
30-10 Steinway St.
Astoria, NY 11103

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 A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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on *(date)* _____ , and mailed a copy to the individual's last known address; or

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I returned the summons unexecuted because _____ ; or

Other *(specify)*:

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

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UNITED STATES DISTRICT COURT

for the

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Plaintiff(s)

v.

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Defendant(s)

Civil Action No.

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Astoria, NY 11103

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Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Queens, NY Spanish Restaurant Tu Casa Facing Tipped Workers' FLSA Lawsuit](#)
