

JUDGE STANTON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

10 CIV 8372

ZU GUO YANG, XIAO HONG WANG, BAO
LAN DENG, CINDY CHAN, MOOI YANG,
LING MEI ZHANG,

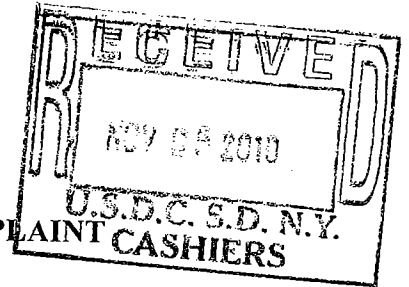
Plaintiffs,

v.

SHANGHAI CAFE INC., SHANGHAI CAFE
DELUXE INC., GRACE LAU, YUNG MEI KU,
PING LIN, ZHONGSHU DENG,

Defendants.

Case No.



Plaintiffs Zu Guo Yang, Xiao Hong Wang, Bao Lan Deng, Cindy Chan, Mooi Yang, and Ling Mei Zhang (collectively, "Plaintiffs"), by their undersigned attorneys, make the following allegations in support of their Complaint against Defendants Shanghai Cafe Inc., Shanghai Cafe Deluxe Inc., Grace Lau, Yung Mei Ku (a.k.a. "Diane Ku"), Ping Lin, and Zhongshu Deng (collectively, "Defendants"):

PRELIMINARY STATEMENT

1. Plaintiffs are former employees of Shanghai Café, a Chinese restaurant owned and operated by Defendants and located at 100 Mott Street in Manhattan, New York.
2. Plaintiffs bring this action to recover damages arising out of their employment at Shanghai Café.
3. Defendant Shanghai Cafe Inc. was involved in the operation of Shanghai Café from as early as November 2002 until approximately June 2010, and Defendant Shanghai Cafe Deluxe Inc. has been involved in the operation of Shanghai Café since approximately June 2010.

4. Throughout the course of their employment, Plaintiffs regularly worked more than fifty hours each week for wages that fell below the legal minimum wage and without receiving the overtime premiums required by law. In addition, Defendants failed to comply with spread-of-hours requirements under New York state law. Defendants also withheld parts of Plaintiffs' tips, in violation of New York state law.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over Plaintiffs' federal claims pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. ("FLSA"), 29 U.S.C. § 216, and 28 U.S.C. § 1331.

6. This Court has supplemental jurisdiction over Plaintiffs' New York state law claims pursuant to 28 U.S.C. § 1367.

7. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PARTIES

Plaintiffs

8. Plaintiff Zu Guo Yang was employed by some or all of the Defendants as a cook at Shanghai Café from approximately March 2006 until he was discharged on or about June 8, 2010.

9. Plaintiff Xiao Hong Wang was employed by some or all of the Defendants as a cook at Shanghai Café from approximately June 2004 to March 2005 and from March 2006 until he was discharged on or about June 8, 2010.

10. Plaintiff Bao Lan Deng was employed by some or all of the Defendants as a dim sum maker at Shanghai Café from approximately October 2005 until she was discharged on or about June 8, 2010.

11. Plaintiff Cindy Chan was employed by some or all of the Defendants as a server at Shanghai Café from approximately March 2003 until she was discharged on or about June 8, 2010.

12. Plaintiff Mooi Yang was employed by some or all of the Defendants as a server at Shanghai Café from approximately September 2005 until she was discharged on or about June 8, 2010.

13. Plaintiff Ling Mei Zhang was employed by some or all of the Defendants as a server at Shanghai Café from approximately 2004 to 2005 and June 2007 until she was discharged on or about June 8, 2010.

Defendants

14. Defendant Shanghai Cafe Inc. was a domestic business corporation organized under the state of New York on or about November 14, 2002. It was located at 100 Mott Street, New York, NY 10013.

15. Defendant Shanghai Cafe Inc. was dissolved on or about September 17, 2010.

16. Defendant Shanghai Cafe Deluxe Inc. is a domestic business corporation organized under the state of New York on or about June 15, 2010. It is located at 100 Mott Street, New York, NY 10013.

17. Upon information and belief, Defendant Shanghai Cafe Deluxe Inc. is a successor corporation to Defendant Shanghai Cafe Inc.

18. At some or all times relevant to this action, Defendant Grace Lau has been the Chairman or Chief Executive Officer of Shanghai Cafe Inc.

19. Upon information and belief, at some or all times relevant to this action, Defendant Grace Lau has been an owner or shareholder of Shanghai Cafe Inc.

20. Upon information and belief, at some or all times relevant to this action, Defendant Grace Lau has been an owner or shareholder of Shanghai Cafe Deluxe Inc.

21. Upon information and belief, at some or all times relevant to this action, Defendant Grace Lau has had the power to hire and fire Plaintiffs and other non-managerial workers at Shanghai Café and control the terms and conditions of their employment.

22. Upon information and belief, at some or all times relevant to this action, Defendant Grace Lau has had the power to determine the rate and method of any compensation paid to Plaintiffs and other non-managerial workers at Shanghai Café.

23. Upon information and belief, at some or all times relevant to this action, Defendant Yung Mei Ku has been an owner or shareholder of Shanghai Cafe Inc.

24. Upon information and belief, at some or all times relevant to this action, Defendant Yung Mei Ku has been an owner or shareholder of Shanghai Cafe Deluxe Inc.

25. Upon information and belief, at some or all times relevant to this action, Defendant Yung Mei Ku has been a manager of Shanghai Café with supervisory authority on a day-to-day basis.

26. Upon information and belief, at some or all times relevant to this action, Defendant Yung Mei Ku has had the power to hire and fire Plaintiffs and other non-managerial workers at Shanghai Café and control the terms and conditions of their employment.

27. Upon information and belief, at some or all times relevant to this action, Defendant Yung Mei Ku has had the power to determine the rate and method of any compensation paid to Plaintiffs and other non-managerial workers at Shanghai Café.

28. Upon information and belief, at some or all times relevant to this action, Defendant Ping Lin has been an owner or shareholder of Shanghai Cafe Inc.

29. Upon information and belief, at some or all times relevant to this action, Defendant Ping Lin has been an owner or shareholder of Shanghai Cafe Deluxe Inc.

30. Upon information and belief, at some or all times relevant to this action, Defendant Ping Lin has acted as a manager/supervisor of Shanghai Café on a day-to-day basis.

31. Upon information and belief, at some or all times relevant to this action, Defendant Ping Lin has had the power to hire and fire Plaintiffs and other non-managerial workers at Shanghai Café and control the terms and conditions of their employment.

32. Upon information and belief, at some or all times relevant to this action, Defendant Ping Lin has had the power to determine the rate and method of any compensation paid to Plaintiffs and other non-managerial workers at Shanghai Café.

33. Upon information and belief, at some or all times relevant to this action, Defendant ZhongShu Deng has been an owner of Shanghai Cafe Inc.

34. Upon information and belief, at some or all times relevant to this action, Defendant ZhongShu Deng has been an owner of Shanghai Cafe Deluxe Inc.

35. Upon information and belief, at some or all times relevant to this action, Defendant ZhongShu Deng has had the power to hire and fire Plaintiffs and other non-managerial workers at Shanghai Café and control the terms and conditions of their employment.

36. Upon information and belief, at all times relevant to this action, Shanghai Cafe Inc. has been an enterprise engaged in interstate commerce within the meaning of the FLSA in that it (i) has had employees engaged in commerce or in the production of goods for commerce, or who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce by any person; and (ii) has had an annual gross volume of sales of not less than \$500,000.

37. Upon information and belief, since approximately June 2010, Shanghai Cafe Deluxe Inc. has been an enterprise engaged in interstate commerce within the meaning of the FLSA in that it (i) has and has had employees engaged in commerce or in the production of goods for commerce, or who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce by any person; and (ii) has and has had an annual gross volume of sales of not less than \$500,000.

FACTS

38. At all times relevant herein, Defendants have operated Shanghai Café at 100 Mott Street in Manhattan.

39. At all times relevant herein, Shanghai Café served food to customers on the premises and provided take-out and delivery service.

40. At all times relevant herein, Shanghai Café was a “restaurant” within the meaning of the New York Labor Law (“NYLL”).

41. Plaintiffs were each employed at Shanghai Café beginning on various dates over the past eight years. Plaintiffs were all discharged on or about June 8, 2010 when Shanghai Café temporarily closed. At all times relevant to this action, Plaintiffs were Defendants’ employees within the meaning of the FLSA and NYLL. 29 U.S.C. § 203(e); NYLL § 651(5).

42. Shanghai Café reopened on or about June 21, 2010, under the same or substantially the same name and, upon information and belief, the same management.

43. At all times relevant to this action, the servers' primary responsibilities included taking orders from customers, putting orders in the computer, serving drinks, and otherwise attending to the customers' needs during their meal. The servers also occasionally assisted in food preparation and cleaning areas of the restaurant, including the restrooms.

44. At all times relevant to this action, the dim sum maker's primary responsibilities included food preparation, including wrapping dim sum food items.

45. At all times relevant to this action, the cooks' primary responsibilities included food preparation, cooking food for the customers, and cleaning up the kitchen.

Minimum Wage

46. Both the FLSA and NYLL require that employees be paid a minimum wage. 29 U.S.C. § 206; NYLL § 652.

47. NYLL § 652 required employees to be paid a minimum wage of at least \$5.15 during all relevant time periods prior to January 1, 2005, a minimum wage of at least \$6.00 per hour between January 1, 2005, and December 31, 2005, a minimum wage of \$6.75 per hour between January 1, 2006, and December 31, 2006, a minimum wage of \$7.15 per hour between January 1, 2007, and July 23, 2009, and a minimum wage of \$7.25 per hour from July 24, 2009, onwards.

48. 29 U.S.C. § 206 required employees to be paid a minimum wage of at least \$5.15 prior to July 24, 2007, a minimum wage of at least \$5.85 per hour between July 24, 2007, and July 23, 2008, a minimum wage of at least \$6.55 per hour between July 24, 2008, and July 23, 2009, and a minimum wage of at least \$7.25 per hour from July 24, 2009, onwards.

49. Plaintiffs regularly worked for Defendants six days a week and as many as eleven hours each weekday and twelve hours each weekend day during most or all of their employment.

50. Defendants paid Plaintiffs Bao Lan Deng, Cindy Chan, Mooi Yang, and Ling Mei Zhang wages less than the applicable minimum wages throughout their employment.

51. Defendants often did not pay Plaintiffs any wages for some hours worked.

52. At all times relevant to this action, Defendants compensated some or all Plaintiffs by paying them in cash or a combination of checks and cash without an accompanying pay stub or receipt.

53. At least some of the Plaintiffs were occasionally required to return some of the money that they received in checks as part of their salary.

54. Beginning in around early 2009, Plaintiffs were required to sign their names on a form that they could not read each time they received their salaries. At various times, various Plaintiffs were told that this form was a release, insurance, and/or waiver.

55. Upon information and belief, at all times relevant to this action, Shanghai Café did not record the exact amount of time Plaintiffs worked.

56. Upon information and belief, beginning in 2007 or 2008, Shanghai Café posted a work schedule in the restaurant that did not correspond to Plaintiffs' actual work schedules. The posted schedule was a sham to make it appear that the Plaintiffs and other workers were working fewer hours than they actually worked.

57. Defendants did not notify Plaintiffs of the minimum wage provisions of the FLSA.

58. Throughout the employment of the Plaintiffs at Shanghai Café, Defendants failed to maintain a workplace display in any language, in a place accessible to employees and in a

visually conspicuous manner, the notices of employee rights to receive minimum wages as required by the FLSA and NYLL.

59. Defendants did not notify Plaintiffs of the tip credit provisions of the FLSA.

60. Defendants did not notify Plaintiffs of Defendants' intention to claim a tip credit against their minimum wage obligations.

61. The monthly salary paid by Defendants to Plaintiffs Bao Lan Deng, Cindy Chan, Mooi Yang, and Ling Mei Zhang was insufficient to satisfy Defendants' obligation to pay the minimum wage required by the FLSA.

62. The monthly salary paid by Defendants to Plaintiffs Bao Lan Deng, Cindy Chan, Mooi Yang, and Ling Mei Zhang was insufficient to satisfy Defendants' obligations to pay the minimum wage as required by the NYLL.

63. Defendants' failure to pay minimum wage was willful.

Overtime

64. The FLSA and New York State Department of Labor Regulations require that Defendants pay an overtime rate of one-and-a-half times the regular rate of pay for each hour of work over forty hours a week. 29 U.S.C. § 207; 12 N.Y.C.R.R. § 137-1.3.

65. Plaintiffs regularly worked between approximately fifty-five to sixty-eight hours each week during most or all of their employment.

66. Despite the fact that Plaintiffs regularly worked in excess of forty hours a week, Defendants failed to pay Plaintiffs overtime compensation as required by both the FLSA and New York State Department of Labor Regulations, and often failed to pay wages at all for overtime hours.

67. Defendants did not notify Plaintiffs of the overtime provisions of the FLSA and New York State Department of Labor Regulations.

68. Upon information and belief, throughout the employment of the Plaintiffs at Shanghai Café, Defendants failed to maintain a workplace display in any language, in a place accessible to employees and in a visually conspicuous manner, the notices of employee rights to receive overtime compensation as required by the FLSA and New York State Department of Labor Regulations.

69. Defendants' failure to pay overtime was willful.

Spread of Hours

70. The "spread of hours" is the number of hours from the time that an employee started working on a particular day until the time that he or she stopped working for the day. 12 N.Y.C.R.R. § 137-3.11. New York State Department of Labor Regulations § 137-1.7 provides that an employer is required to pay an employee an extra hour of pay at the full minimum wage, without allowances, for each day in which the employee's spread of hours exceeds ten. *Id.* at § 137-1.7.

71. Plaintiffs routinely worked a "spread of hours" greater than ten hours per day.

72. Despite the fact that Plaintiffs routinely worked a "spread of hours" greater than ten hours per day, Defendants did not pay Plaintiffs any additional compensation as required by New York State Department of Labor Regulations.

73. Defendants' failure to pay spread-of-hours was willful.

Illegal Retention of Plaintiffs' Tips

74. Throughout the course of Plaintiffs' employment, Shanghai Cafe Inc. had a complicated tip pooling system in which tips were aggregated and then split up among multiple people by management. The restaurant's management controlled the tip pool, and required Plaintiffs Cindy Chan, Mooi Yang, and Ling Mei Zhang, and other employees, to participate in the tip pool.

75. On information and belief, Defendants withheld portions of the tips intended for Plaintiffs Cindy Chan, Mooi Yang, and Ling Mei Zhang, and did not put those tips in the tip pool in violation of the NYLL.

76. Throughout the course of Plaintiffs' employment, Defendants Grace Lau and Yung Mei Ku also took a share of the tips in the tip pool in violation of the NYLL.

77. Defendants Grace Lau and Yung Mei Ku were not employees who "customarily and regularly" receive tips under the NYLL.

78. Throughout the course of Plaintiffs' employment, Defendants Grace Lau and Yung Mei Ku required that the tip pool allocate tips to other staff who were ineligible to receive tips under the NYLL.

79. Defendants' retention of Plaintiffs' tips in violation of the NYLL was willful.

80. Defendants failed to display copies of NYLL §§ 193 and 196-d regarding the prohibition of illegal deductions from wages and the illegality of employers demanding or accepting any portion of employees' tips.

Commonality of Defendants

81. Upon information and belief, Defendant Shanghai Cafe Deluxe Inc. is a successor corporation of Defendant Shanghai Cafe Inc.

82. Defendant Shanghai Cafe Inc. was incorporated on or about November 14, 2002.

83. Shanghai Café ceased its ordinary business operations on or about June 8, 2010.

84. Defendant Shanghai Cafe Deluxe Inc. was incorporated on or about June 15, 2010.

85. Shanghai Café re-opened and commenced its ordinary business operations on or about June 21, 2010, at the same location, 100 Mott. St., under the same or a substantially similar trade name.

86. Although the sign on the front of the restaurant changed from “Shanghai Café” to “Shanghai Café Deluxe,” the Chinese name (喬家柵) on the sign remained unchanged and the menus still list the restaurant’s name as “Shanghai Café.”

87. Upon information and belief, Shanghai Café resumed its ordinary business operations using most or all of the existing equipment and inventory of the restaurant.

88. Upon information and belief, Shanghai Café resumed its ordinary business operations relying on the same customer base.

89. Upon information and belief, Defendant Shanghai Cafe Deluxe Inc. continues to engage in virtually the identical business of Defendant Shanghai Cafe Inc.

90. Upon information and belief, Defendant Shanghai Cafe Deluxe Inc. assumed liabilities ordinarily necessary for the uninterrupted continuation of Defendant Shanghai Cafe Inc.’s business.

91. Upon information and belief, Defendant ZhongShu Deng is an owner of Shanghai Cafe Deluxe Inc.

92. Upon information and belief, Defendant ZhongShu Deng is the husband to and lives at the same address as Defendant Yung Mei Ku, the owner/manager of Shanghai Cafe Inc.

93. Defendants Grace Lau and Ping Lin, who were involved in managing Shanghai Café, remained active in the daily management of Shanghai Cafe after its ownership was transferred to Shanghai Cafe Deluxe Inc.

94. Upon information and belief, three of Defendant Shanghai Cafe Inc.'s employees were rehired by Defendant Shanghai Cafe Deluxe Inc., but not the Plaintiffs.

95. Defendant Shanghai Cafe Inc. was dissolved on September 17, 2010.

96. Accordingly, Defendant Shanghai Cafe Deluxe Inc. is liable for the debts of its predecessor, Defendant Shanghai Cafe Inc., for reasons including the following: (a) the transaction between the two entities amounts to a "de facto" merger; (b) Shanghai Cafe Deluxe Inc. is a "mere continuation" of Shanghai Cafe Inc.; and/or (c) there is a "substantial continuity of identity" between the two corporations.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Minimum Wage Under the FLSA

(Plaintiffs Bao Lan Deng, Cindy Chan, Mooi Yang, and Ling Mei Zhang)

97. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 96 of the Complaint.

98. At all times relevant to this action, Plaintiffs were employed by some or all of the Defendants within the meaning of the FLSA, 29 U.S.C. § 203.

99. At all times relevant to this action, Plaintiffs were engaged in commerce or the production of goods for commerce, or were employed by an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA, specifically 29 U.S.C. § 206(a).

100. At all times relevant to this action, Plaintiffs were entitled to the protections of the FLSA, 29 U.S.C. §§ 206 and 207.

101. Defendants failed to pay Plaintiffs the applicable minimum hourly wage for all hours worked in violation of the FLSA, 29 U.S.C. § 206(a).

102. Defendants' violations of the FLSA, as described herein, have been willful.

103. Accordingly, Plaintiffs are entitled to recover from Defendants, jointly and severally, their unpaid minimum wages and an equal amount in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including post-judgment interest, pursuant to the FLSA, 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION

Overtime Wages Under the FLSA (All Plaintiffs)

104. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

105. At all times relevant to this action, Plaintiffs were employed by some or all of the Defendants within the meaning of the FLSA, 29 U.S.C. § 203.

106. At all times relevant to this action, Plaintiffs were engaged in commerce or the production of goods for commerce, or were employed by an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA, specifically 29 U.S.C. § 207(a).

107. At all times relevant to this action, Plaintiffs were entitled to the protections of the FLSA, 29 U.S.C. §§ 206 and 207.

108. Defendants failed to pay Plaintiffs overtime wages at a rate at least one and one-half times the regular rate of pay for each hour worked in excess of forty hours per workweek, or

at a minimum, one and a half times the minimum wage, in violation of the FLSA, 29 U.S.C. § 207.

109. Defendants' failure to pay Plaintiffs their overtime wages was willful.

110. Due to Defendants' FLSA violations, Plaintiffs are entitled to recover from Defendants, jointly and severally, their unpaid overtime wages and an equal amount in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including post-judgment interest, pursuant to the FLSA, 29 U.S.C. § 216(b).

THIRD CAUSE OF ACTION

Minimum Wages Under NYLL (Plaintiffs Bao Lan Deng, Cindy Chan, Mooi Yang, and Ling Mei Zhang)

111. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

112. At all times relevant to this action, Plaintiffs were employed by some or all of the Defendants within the meaning of NYLL §§ 2 and 651.

113. At all times relevant to this action, Defendants were employers within the meaning of NYLL §§ 2, 190, and 651.

114. Defendants failed to pay Plaintiffs at the applicable minimum hourly wage, in violation of the New York Minimum Wage Act, specifically NYLL § 652 and applicable regulations.

115. Defendants' failure to pay Plaintiffs the applicable minimum hourly wage was willful.

116. Due to Defendants' violations of the NYLL, Plaintiffs are entitled to recover from Defendants, jointly and severally, their unpaid minimum wages and an amount equal to one quarter of their unpaid minimum wages in the form of liquidated damages, as well as reasonable

attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to NYLL § 663(1).

FOURTH CAUSE OF ACTION

**Overtime Wages Under NYLL
(All Plaintiffs)**

117. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

118. At all times relevant to this action, Plaintiffs were employed by some or all of the Defendants within the meaning of NYLL §§ 2 and 651.

119. Defendants failed to pay Plaintiffs overtime wages at rates at least one and one-half times the regular rate of pay for each hour worked in excess of forty hours per week, or at a minimum, one and one-half times the minimum wage in violation of the NYLL and accompanying regulations.

120. Defendants' failure to pay Plaintiffs overtime wages was willful.

121. Due to Defendants' NYLL violations, Plaintiffs are entitled to recover from Defendants, jointly and severally, their unpaid overtime wages and an amount equal to one quarter of their unpaid overtime wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to NYLL § 663(1).

FIFTH CAUSE OF ACTION

**Spread-of-Hours Pay Under NYLL
(All Plaintiffs)**

122. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

123. At all times relevant to this action, Plaintiffs were employed by some or all of the Defendants within the meaning of NYLL §§ 2 and 651.

124. Defendants failed to pay Plaintiffs spread-of-hours wages of an additional hour of pay at the minimum wage for each day Plaintiffs had a spread of hours in excess of ten hours per day, in violation of the NYLL and accompanying regulations.

125. Defendants' failure to pay Plaintiffs spread-of-hours wages was willful.

126. Due to Defendants' NYLL violations, Plaintiffs are entitled to recover from Defendants, jointly and severally, damages in the amount of unpaid spread-of-hours wages and an amount equal to one quarter of their unpaid spread-of-hours wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to NYLL § 663(1).

SIXTH CAUSE OF ACTION

Unlawful Retention of Gratuities Under NYLL (Plaintiffs Cindy Chan, Mooi Yang, and Ling Mei Zhang)

127. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

128. At all times relevant to this action, Plaintiffs were employed by some or all of the Defendants within the meaning of NYLL §§ 2 and 651.

129. Defendants retained part of Plaintiffs' Cindy Chan, Mooi Yang, and Ling Mei Zhang's gratuities, including charges purported to be gratuities, in violation of NYLL § 196-d.

130. Defendants' retention of Plaintiffs' gratuities was willful.

131. Accordingly, Plaintiffs Cindy Chan, Mooi Yang, and Ling Mei Zhang are entitled to recover from Defendants, jointly and severally, damages in the amount of unlawfully retained gratuities and an amount equal to one quarter of their unlawfully retained gratuities in the form

of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to NYLL § 198.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs respectfully request that judgment be granted:

- a. Declaring Defendants' conduct complained of herein to be in violation of the FLSA, New York Minimum Wage Act, the NYLL and their respective regulations;
 - b. Awarding Plaintiffs unpaid minimum wages, where applicable;
 - c. Awarding Plaintiffs unpaid overtime wages;
 - d. Awarding Plaintiffs additional pay for all spread-of-hours violations;
 - e. Awarding Plaintiffs compensation for gratuities unlawfully retained by Defendants under the NYLL, where applicable;
- a. Awarding Plaintiffs liquidated damages pursuant to 29 U.S.C. § 216(b);
 - b. Awarding Plaintiffs liquidated damages pursuant to NYLL §§ 198(l-a), 663(1) due to Defendants' willful violation of New York state law;
 - c. Awarding Plaintiffs pre- and post-judgment interest, where applicable; and
 - d. Awarding Plaintiffs the costs of this action, together with reasonable attorneys' fees, and such other and further relief as this Court deems necessary and proper.

Dated: Nov. 5, 2010



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