



# CV 17- 00203

FILED  
CLERK

Helen F. Dalton & Associates, P.C.  
Roman Avshalumov (RA 5508)  
69-12 Austin Street  
Forest Hills, NY 11375  
Telephone: 718-263-9591

Brooklyn Office 01/13/2017  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
~~LONG ISLAND OFFICE~~

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FEUERSTEIN, J.**

**LINDSAY, M.J.**

-----X  
SONIA CANALES, SABINA MOLINA, and MELIDA  
URRUTIA, individually and on behalf of all others similarly  
situated,

**COLLECTIVE ACTION  
COMPLAINT**

Plaintiffs,

JURY TRIAL  
DEMANDED

-against-

CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND  
GROCERY, CLINTON DELI II INC. d/b/a CLINTON DELI II,  
and JOSE RICARDO DIAZ and BLANCA RIVERA DIAZ, as  
individuals,

Defendants.

-----X

Plaintiffs, **SONIA CANALES, SABINA MOLINA, and MELIDA URRUTIA, individually and on behalf of all others similarly situated**, (hereinafter referred to as "Plaintiffs"), by their attorneys at Helen F. Dalton & Associates, P.C., allege, upon personal knowledge as to themselves and upon information and belief as to other matters, as follows:

**PRELIMINARY STATEMENT**

1. Plaintiffs, **SONIA CANALES, SABINA MOLINA, and MELIDA URRUTIA, individually and on behalf of all others similarly situated**, through undersigned counsel, bring this action against **CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY, CLINTON DELI II INC. d/b/a CLINTON DELI II, and JOSE RICARDO DIAZ and BLANCA RIVERA DIAZ, as individuals**, (hereinafter referred to as "Defendants"), to recover damages for egregious violations of federal and state minimum wage and overtime, arising out of

Plaintiffs' employment at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550.

2. Plaintiff **SONIA CANALES** was employed by Defendants at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550, as a food preparer, cleaner, and performing other miscellaneous duties from in or around September 2015 until in or around September 2016.
3. Plaintiff **SABINA MOLINA** was employed by Defendants at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550, as a food preparer, cleaner, and performing other miscellaneous duties from in or around January 2013 until in or around September 2016.
4. Plaintiff **MELIDA URRUTIA** was employed by Defendants at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550, as a food preparer, cleaner, and performing other miscellaneous duties from in or around March 2015 until in or around September 2015.

#### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over Plaintiffs' federal claims pursuant to the FLSA, 29 U.S.C. §216 and 28 U.S.C. §1331.
6. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. §1367.
7. Venue is proper in the EASTERN 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.
8. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§2201 & 2202.

#### **THE PARTIES**

9. Plaintiff **SONIA CANALES** was employed by Defendants at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550, as a food preparer, cleaner, and performing other miscellaneous duties from in or around September 2015 until in or around September 2016.

10. Plaintiff **SABINA MOLINA** was employed by Defendants at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550, as a food preparer, cleaner, and performing other miscellaneous duties from in or around January 2013 until in or around September 2016.
11. Plaintiff **MELIDA URRUTIA** was employed by Defendants at CLINTON DELI II located at 159 Baldwin Road, Hempstead, New York 11550, as a food preparer, cleaner, and performing other miscellaneous duties from in or around March 2015 until in or around September 2015.
12. Upon information and belief, Defendant, CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY, is a corporation organized under the laws of New York with a principal executive office at located at 420 Clinton Avenue, Hempstead, New York 11550.
13. Upon information and belief, Defendant, CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY, is a corporation authorized to do business under the laws of New York.
14. Upon information and belief, Defendant JOSE RICARDO DIAZ owns and/or operates CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
15. Upon information and belief, Defendant JOSE RICARDO DIAZ manages CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
16. Upon information and belief, Defendant JOSE RICARDO DIAZ is the Chairman of the Board of CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
17. Upon information and belief, Defendant JOSE RICARDO DIAZ is the Chief Executive Officer of CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
18. Upon information and belief, Defendant JOSE RICARDO DIAZ is an agent of CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
19. Upon information and belief, Defendant JOSE RICARDO DIAZ has power over personnel decisions at CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.

20. Upon information and belief, Defendant JOSE RICARDO DIAZ has power over payroll decisions at CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
21. Defendant JOSE RICARDO DIAZ has the power to hire and fire employees at CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY, establish and pay their wages, set their work schedule, and maintains their employment records.
22. During all relevant times herein, Defendant JOSE RICARDO DIAZ was Plaintiffs' employer within the meaning of the FLSA and NYLL.
23. Upon information and belief, Defendant BLANCA RIVERA DIAZ owns and/or operates CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
24. Upon information and belief, Defendant BLANCA RIVERA DIAZ manages CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
25. Upon information and belief, Defendant BLANCA RIVERA DIAZ is the Chairman of the Board of CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
26. Upon information and belief, Defendant BLANCA RIVERA DIAZ is the Chief Executive Officer of CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
27. Upon information and belief, Defendant BLANCA RIVERA DIAZ is an agent of CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
28. Upon information and belief, Defendant BLANCA RIVERA DIAZ has power over personnel decisions at CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
29. Upon information and belief, Defendant BLANCA RIVERA DIAZ has power over payroll decisions at CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY.
30. Defendant BLANCA RIVERA DIAZ has the power to hire and fire employees at CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY, establish and pay their wages, set their work schedule, and maintains their employment records.

31. During all relevant times herein, Defendant BLANCA RIVERA DIAZ was Plaintiffs' employer within the meaning of the FLSA and NYLL.
32. Upon information and belief, Defendant, CLINTON DELI II INC. D/B/A CLINTON DELI II, is a corporation organized under the laws of New York with a principal executive office at located at 159 Baldwin Road, Hempstead, New York 11550.
33. Upon information and belief, Defendant, CLINTON DELI II INC. D/B/A CLINTON DELI II, is a corporation authorized to do business under the laws of New York.
34. Upon information and belief, Defendant JOSE RICARDO DIAZ owns and/or operates CLINTON DELI II INC. D/B/A CLINTON DELI II.
35. Upon information and belief, Defendant JOSE RICARDO DIAZ manages CLINTON DELI II INC. D/B/A CLINTON DELI II.
36. Upon information and belief, Defendant JOSE RICARDO DIAZ is the Chairman of the Board of CLINTON DELI II INC. D/B/A CLINTON DELI II.
37. Upon information and belief, Defendant JOSE RICARDO DIAZ is the Chief Executive Officer of CLINTON DELI II INC. D/B/A CLINTON DELI II.
38. Upon information and belief, Defendant JOSE RICARDO DIAZ is an agent of CLINTON DELI II INC. D/B/A CLINTON DELI II.
39. Upon information and belief, Defendant JOSE RICARDO DIAZ has power over personnel decisions at CLINTON DELI II INC. D/B/A CLINTON DELI II.
40. Upon information and belief, Defendant JOSE RICARDO DIAZ has power over payroll decisions at CLINTON DELI II INC. D/B/A CLINTON DELI II.
41. Defendant JOSE RICARDO DIAZ has the power to hire and fire employees at CLINTON DELI II INC. D/B/A CLINTON DELI II, establish and pay their wages, set their work schedule, and maintains their employment records.
42. During all relevant times herein, Defendant JOSE RICARDO DIAZ was Plaintiffs' employer within the meaning of the FLSA and NYLL.
43. Upon information and belief, Defendant BLANCA RIVERA DIAZ owns and/or operates CLINTON DELI II INC. D/B/A CLINTON DELI II.
44. Upon information and belief, Defendant BLANCA RIVERA DIAZ manages CLINTON DELI II INC. D/B/A CLINTON DELI II.

45. Upon information and belief, Defendant BLANCA RIVERA DIAZ is the Chairman of the Board of CLINTON DELI II INC. D/B/A CLINTON DELI II.
46. Upon information and belief, Defendant BLANCA RIVERA DIAZ is the Chief Executive Officer of CLINTON DELI II INC. D/B/A CLINTON DELI II.
47. Upon information and belief, Defendant BLANCA RIVERA DIAZ is an agent of CLINTON DELI II INC. D/B/A CLINTON DELI II.
48. Upon information and belief, Defendant BLANCA RIVERA DIAZ has power over personnel decisions at CLINTON DELI II INC. D/B/A CLINTON DELI II.
49. Upon information and belief, Defendant BLANCA RIVERA DIAZ has power over payroll decisions at CLINTON DELI II INC. D/B/A CLINTON DELI II.
50. Defendant BLANCA RIVERA DIAZ has the power to hire and fire employees at CLINTON DELI II INC. D/B/A CLINTON DELI II, establish and pay their wages, set their work schedule, and maintains their employment records.
51. During all relevant times herein, Defendant BLANCA RIVERA DIAZ was Plaintiffs' employer within the meaning of the FLSA and NYLL.
52. On information and belief, CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY is, at present and has been at all times relevant to the allegation in the complaint, an enterprise engaged in interstate commerce within the meaning of the FLSA in that the entity (i) has had employees engaged in commerce or in the production of goods for commerce, and handle, sell or otherwise work on goods or material 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 \$500,000.00.
53. On information and belief, CLINTON DELI II INC. D/B/A CLINTON DELI II is, at present and has been at all times relevant to the allegation in the complaint, an enterprise engaged in interstate commerce within the meaning of the FLSA in that the entity (i) has had employees engaged in commerce or in the production of goods for commerce, and handle, sell or otherwise work on goods or material 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 \$500,000.00.

**FACTUAL ALLEGATIONS**

54. Plaintiff **SONIA CANALES** was employed by Defendants from in or around September 2015 until in or around September 2016.
55. Upon information and belief, Plaintiff **SONIA CANALES** worked approximately 64 (sixty-four) hours or more per week from in or around September 2015 until in or around September 2016.
56. Plaintiff **SONIA CANALES** was paid by Defendants approximately \$360.00 per week from in or around September 2015 until in or around September 2016.
57. Defendants failed to pay Plaintiff **SONIA CANALES** the legally prescribed minimum wage for her hours worked from in or around September 2015 until in or around September 2016, a blatant violation of the minimum wage provisions contained in the FLSA and NYLL.
58. Although Plaintiff **SONIA CANALES** worked approximately 64 (sixty-four) hours or more per week from in or around September 2015 until in or around September 2016, Defendants did not pay Plaintiff time and a half (1.5) for hours worked over forty (40), a blatant violation of the overtime provisions contained in the FLSA and NYLL.
59. Plaintiff **SABINA MOLINA** was employed by Defendants from in or around January 2013 until in or around September 2016.
60. Upon information and belief, Plaintiff **SABINA MOLINA** worked approximately 60 (sixty) hours or more per week from in or around January 2013 until in or around September 2016.
61. Plaintiff **SABINA MOLINA** was paid by Defendants approximately \$360.00 per week from in or around January 2013 until in or around September 2016.
62. Defendants failed to pay Plaintiff **SABINA MOLINA** the legally prescribed minimum wage for her hours worked from in or around January 2013 until in or around September 2016, a blatant violation of the minimum wage provisions contained in the FLSA and NYLL.
63. Although Plaintiff **SABINA MOLINA** worked approximately 60 (sixty) hours or more per week from in or around May 2014 until in or around May 2016, Defendants

did not pay Plaintiff time and a half (1.5) for hours worked over forty (40), a blatant violation of the overtime provisions contained in the FLSA and NYLL.

64. Plaintiff **MELIDA URRUTIA** was employed by Defendants from in or around March 2015 until in or around September 2015.
65. Upon information and belief, Plaintiff **MELIDA URRUTIA** worked approximately 63 (sixty-three) hours or more per week from in or around March 2015 until in or around September 2015.
66. Plaintiff **MELIDA URRUTIA** was paid by Defendants approximately \$360.00 per week from in or around March 2015 until in or around September 2015.
67. Defendants failed to pay Plaintiff **MELIDA URRUTIA** the legally prescribed minimum wage for her hours worked from in or around March 2015 until in or around September 2015, a blatant violation of the minimum wage provisions contained in the FLSA and NYLL.
68. Although Plaintiff **MELIDA URRUTIA** worked approximately 63 (sixty-three) hours or more per week from in or around March 2015 until in or around September 2015, Defendants did not pay Plaintiff time and a half (1.5) for hours worked over forty (40), a blatant violation of the overtime provisions contained in the FLSA and NYLL.
69. Upon information and belief, Defendants willfully failed to post notices of the minimum wage and overtime wage requirements in a conspicuous place at the location of their employment as required by both the NYLL and the FLSA.
70. Upon information and belief, Defendants willfully failed to keep payroll records as required by both NYLL and the FLSA.
71. As a result of these violations of Federal and New York State labor laws, Plaintiff seeks compensatory damages and liquidated damages in an amount exceeding \$100,000.00. Plaintiff also seeks interest, attorney's fees, costs, and all other legal and equitable remedies this Court deems appropriate.



**COLLECTIVE ACTION ALLEGATIONS**

72. Plaintiffs bring this action on behalf of themselves and other employees similarly situated as authorized under the FLSA, 29 U.S.C. § 216(b). The employees similarly situated are:
73. Collective Class: All persons who are or have been employed by the Defendants as cleaners, food preparers, or other similarly titled personnel with substantially similar job requirements and pay provisions, who were performing the same sort of functions for Defendants, other than the executive and management positions, who have been subject to Defendants' common practices, policies, programs, procedures, protocols and plans including willfully failing and refusing to pay required minimum wages and overtime wages.
74. Upon information and belief, Defendants employed between 10 and 15 employees within the past three years subjected to similar payment structures.
75. Upon information and belief, Defendants suffered and permitted Plaintiffs and the Collective Class to work more than forty hours per week without appropriate overtime compensation.
76. Upon information and belief, Defendants failed to properly pay statutorily mandated minimum wage amounts pursuant to the FLSA and NYLL.
77. Upon information and belief, Defendants failed to provide wage notices and statements in Plaintiffs' primary language.
78. Defendants' unlawful conduct has been widespread, repeated, and consistent.
79. Upon information and belief, Defendant had knowledge that Plaintiffs and the Collective Class performed work requiring overtime pay and spread of hours compensation.
80. Defendants' conduct as set forth in this Complaint, was willful and in bad faith, and has caused significant damages to Plaintiff and the Collective Class.
81. Defendants are liable under the FLSA for failing to properly compensate Plaintiff and the Collective Class, and as such, notice should be sent to the Collective Class. There are numerous similarly situated current and former employees of Defendants who have been denied overtime pay and minimum wage pay in violation of the FLSA and NYLL who would benefit from the issuance of a Court-supervised notice of the

present lawsuit, and the opportunity to join the present lawsuit. Those similarly situated employees are known to Defendants and are readily identifiable through Defendants' records.

82. The questions of law and fact common to the putative class predominate over any questions affecting only individual members.
83. The claims of Plaintiff are typical of the claims of the putative class.
84. Plaintiff and his counsel will fairly and adequately protect the interests of the putative class.
85. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

**FIRST CAUSE OF ACTION**  
**Overtime Wages Under The Fair Labor Standards Act**

86. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.
87. Plaintiffs have consented in writing to be a party to this action, pursuant to 29 U.S.C. §216(b).
88. At all times relevant to this action, Plaintiffs were engaged in commerce or the production of goods for commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).
89. At all times relevant to this action, Defendants were employers engaged in commerce or the production of goods for commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).
90. Defendants willfully failed to pay Plaintiffs overtime wages for hours worked in excess of forty (40) hours per week at a wage rate of one and a half (1.5) times the regular wage, to which Plaintiffs were entitled under 29 U.S.C. §§206(a) in violation of 29 U.S.C. §207(a)(1).
91. Defendants' violations of the FLSA as described in this Complaint have been willful and intentional. Defendants have not made a good effort to comply with the FLSA with respect to the compensation of Plaintiffs.

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

**SECOND CAUSE OF ACTION**

**Overtime Wages Under New York Labor Law**

93. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.
94. At all times relevant to this action, Plaintiffs were employed by Defendants within the meaning of New York Labor Law §§2 and 651.
95. Defendants failed to pay Plaintiffs overtime wages for hours worked in excess of forty hours per week at a wage rate of one and a half (1.5) times the regular wage to which Plaintiffs were entitled under New York Labor Law §652, in violation of 12 N.Y.C.R.R. 137-1.3.
96. Due to Defendants' New York Labor Law violations, Plaintiffs are entitled to recover from Defendants, jointly and severally, his unpaid overtime wages and an amount equal to their unpaid overtime wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including interest in accordance with NY Labor Law §198(1-a).

**THIRD CAUSE OF ACTION**

**Minimum Wages Under The Fair Labor Standards Act**

97. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.
98. Plaintiffs have consented in writing to be a party to this action, pursuant to 29 U.S.C. §216(b).
99. At all times relevant to this action, Plaintiffs were engaged in commerce or the production of services and goods for commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).

100. At all times relevant to this action, Defendants were employers engaged in commerce or the production of goods for commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).
101. Defendants willfully failed to pay Plaintiffs a minimum wage in accordance with 29 U.S.C. §§201, 202 and 203.
102. Defendants' violations of the FLSA, as described in this Complaint have been willful and intentional.
103. Defendants have not made a good faith effort to comply with the FLSA with respect to the Plaintiffs' compensation.
104. Due to Defendants' FLSA violations, Plaintiffs are entitled to recover from Defendants, jointly and severally, his 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 interest, pursuant to the FLSA, specifically 29 U.S.C. §216(b).

**FOURTH CAUSE OF ACTION**  
**Minimum Wages Under New York Labor Law**

105. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.
106. At all times relevant to this action, Plaintiffs were employed by Defendants within the meaning of NYLL §§2 and 651.
107. At all times relevant to this action, Defendants were employers within the meaning of NYLL.
108. Defendants failed to record, credit or compensate Plaintiffs the applicable minimum hourly wage, in violation of the New York Minimum Wage Act, specifically NYLL §652.
109. Defendants also failed to pay Plaintiffs the required minimum wage, which Plaintiffs were entitled under NYLL §652, in violation of 12 N. Y. C. R. R. 137-1.3.
110. Due to Defendants' NYLL violations, Plaintiffs are entitled to recover from Defendants, jointly and severally, his unpaid minimum wages and an amount equal to their unpaid minimum wages in the form of liquidated damages, as well as reasonable

attorneys' fees and costs of the action, including interest in accordance with NYLL §198 (1-a).

**FIFTH CAUSE OF ACTION**

**Violation of the Notice and Recordkeeping Requirements of the New York Labor Law**

111. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.
112. Defendants failed to provide Plaintiffs with a written notice, in English and in Spanish (Plaintiffs' primary language), of their rate of pay, regular pay day, and such other information as required by NYLL §195(1).
113. Defendants are liable to Plaintiffs in the amount of \$5,000.00 per Plaintiff together with costs and attorneys' fees.

**SIXTH CAUSE OF ACTION**

**Violation of the Wage Statement Requirements of the New York Labor Law**

114. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.
115. Defendants failed to provide Plaintiffs with wage statements upon each payment of wages, as required by NYLL §195(3)
116. Defendants are liable to Plaintiffs in the amount of \$5,000.00 per Plaintiff together with costs and attorneys' fees.

**PRAYER FOR RELIEF**

**Wherefore**, Plaintiffs respectfully request that judgment be granted:

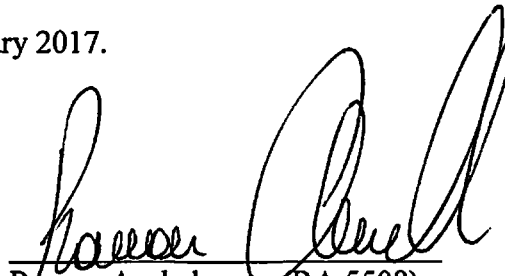
- a. Declaring Defendants' conduct complained herein to be in violation of the Plaintiffs' rights under the FLSA, the New York Labor Law, and its regulations;
- b. Awarding Plaintiffs unpaid overtime wages;
- c. Awarding Plaintiffs unpaid minimum wages;
- d. Awarding Plaintiffs liquidated damages pursuant to 29 U.S.C. §216 and New York Labor Law §§198(1-a), 663(1);
- e. Awarding Plaintiffs prejudgment and post-judgment interest;

- f. Awarding Plaintiffs the costs of this action together with reasonable attorneys' fees; and
- g. Awarding such and further relief as this court deems necessary and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all questions of fact raised by the complaint.

Dated: This 4<sup>th</sup> day of January 2017.



Roman Avshalumov (RA 5508)  
Helen F. Dalton & Associates, P.C.  
69-12 Austin Street  
Forest Hills, NY 11375  
Telephone: 718-263-9591  
Fax: 718-263-9598

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

---

SONIA CANALES and SABINA MOLINA, individually and on behalf of all others similarly  
situated,

Plaintiffs,

-against-

CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY, CLINTON DELI II  
INC. d/b/a CLINTON DELI II, and JOSE RICARDO DIAZ and BLANCA RIVERA DIAZ, as  
individuals,

Defendants.

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SUMMONS & COMPLAINT

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HELEN F. DALTON & ASSOCIATES, P.C.  
Attorneys for Plaintiffs  
69-12 Austin Street  
Forest Hills, NY 11375  
Phone (718) 263-9591  
Fax (718) 263-9598

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**TO:**

**CLINTON DELICATESSEN INC. d/b/a CLINTON DELI AND GROCERY  
420 CLINTON AVENUE  
HEMPSTEAD, NEW YORK 11550**

**CLINTON DELI II INC. d/b/a CLINTON DELI II  
159 BALDWIN ROAD  
HEMPSTEAD, NEW YORK 11550**

**JOSE RICARDO DIAZ  
159 BALDWIN ROAD  
HEMPSTEAD, NEW YORK 11550**

**BLANCA RIVERA DIAZ  
159 BALDWIN ROAD  
HEMPSTEAD, NEW YORK 11550**

CV 17-00203

JS 44 (Rev. 1/2013)

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
SONIA CANALES, SABINA MOLINA, and MELIDA URRUTIA, individually and on behalf of all other similarly situated,
(b) County of Residence of First Listed Plaintiff NASSAU
(c) Attorneys (Firm Name, Address, and Telephone Number) FEUERSTEIN, J. Helen F. Dalton & Associates, P.C. 69-12 Austin Street Forest Hills, NY 11375 (718) 263-9591 LINDSAY, M.J.

DEFENDANTS
CLINTON DELICATESSEN, INC. d/b/a CLINTON DELI AND GROCERY, CLINTON DELI II, INC. d/b/a CLINTON DELI II, and JOSE RICARDO DIAZ and BLANCA RIVERA DIAZ, as individuals
County of Residence of First Listed Defendant NASSAU
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

SUMMONS ISSUED

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

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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): Fair Labor Standards Act
Brief description of cause: Compensation for unpaid overtime wages

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 100,000.00
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE 1/4/17 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY
RECEIPT # 4053110239 AMOUNT \$400 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, \_\_\_\_\_, counsel for \_\_\_\_\_, 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 of 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? \_\_\_\_\_

(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

Attorney Bar Code: RA5508

I certify the accuracy of all information provided above.

Signature: 

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Clinton Deli And Grocery Hit with Unpaid Wage Lawsuit](#)

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