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

-----X
JORGE CARDOSO, *Individually*
and on behalf of others similarly situated,

Plaintiffs

v.

COMPLAINT
Index No.

**COLLECTIVE ACTION
UNDER 29 USC § 216(b)**

**JURY TRIAL
DEMANDED**

**OSCAR CANO and ALFREDO QUESADA aka
SIGIFREDO QUESADA, Individually and
MATIZ LATIN CUISINE CORP.**

Defendants.
-----X

1. Plaintiff Jorge Cardoso (“Plaintiff”), individually and on behalf of others similarly situated, alleges as follows:

NATURE OF THE ACTION

2. This Action on behalf of Plaintiff, individually and on behalf of others similarly situated, seeks the recovery of unpaid wages and related damages for unpaid overtime hours worked, while employed by Matiz Latin Cuisine Corp. (“Matiz”), Oscar Cano (“Cano”) and Alfredo Quesada aka Sigifredo Quesada (“Quesada”) (collectively “Defendants”). Plaintiff seeks these damages under

the applicable provisions of the Fair Labor Standards Act (“FLSA”) and the New York Labor Law (“NYLL”).

PARTIES

3. Plaintiff, a resident of New York State, was employed as a cook for Defendant Matiz from on or about November 2015 through February 5, 2018. Plaintiff was employed by Defendants during the relevant limitations periods.
4. Plaintiff’s consent to sue form is attached as Exhibit “A.”
5. Defendant Matiz is a New York Corporation. Defendant Matiz is a restaurant located at 110-72 Queens Blvd., Forest Hill, NY 11375.
6. Upon information and belief Matiz has an annual gross volume of sales in excess of \$500,000.00.
7. At all relevant times, Matiz has been and continues to be an “employer” engaged in “commerce” and/or in the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 203.
8. Upon information and belief, Defendants Quesada and Cano are the owners and operators of Matiz.¹
9. Upon information and belief, Defendants Cano and Quesada exercise control over Matiz’ day to day operations, including the ability to hire and fire employees and set employee schedules and employee rates of pay.
10. Defendants Quesada and Cano were employers of Plaintiff during the relevant time period.

FLSA COLLECTIVE ACTION ALLEGATIONS

¹ <https://qns.com/story/2015/07/10/tropical-flavors-in-forest-hills/>
<https://www.facebook.com/alfredo.quesada.56>

11. Plaintiff brings the First Claim for Relief as a collective action pursuant to FLSA Section 16 (b), 29 USC § 216(b), on behalf of all similarly situated workers employed by Defendants on or after the date that is three years before the filing of the Complaint in this case as defined herein (“FLSA Collective Plaintiffs”).
12. At all relevant times, Plaintiff and the other FLSA Collective Plaintiffs are and have been similarly situated, have had substantially similar job requirements and pay provisions, and are and have been subjected to Defendants’ decision, policy, plan and common policies, programs, practices, procedures, protocols, routines and rules willfully failing and refusing to pay them one and one half times their regular rate for work in excess of (40) hours per workweek. The claims of Plaintiff stated herein are essentially the same as those of the other FLSA Collective Plaintiffs.
13. The First Claim for Relief is properly brought under and maintained as an opt-in collective action pursuant to § 16(b) of the FLSA, 29 USC § 216(b). The FLSA Collective Plaintiffs are readily ascertainable. For purpose of notice and other purposes related to this action, their names and addresses are readily available from the Defendants. Notice can be provided to the FLSA Collective Plaintiffs via first class mail to the last addresses known to Defendants.

JURISDICTION AND VENUE

14. This Court has original federal question jurisdiction under 28 U.S.C. § 1331, as this case is brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et*

seq. (“FLSA”). This Court has supplemental jurisdiction over the New York state law claims, as they are related in this action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

15. Venue is proper in this District, because Defendants conduct business in this District, and the acts and/or omissions giving rise to the claims herein allegedly took place in this District.

FACTUAL ALLEGATIONS

16. Defendants committed the following alleged acts knowingly, willfully and intentionally.
17. Defendants knew that the nonpayment of overtime pay to Plaintiff and the FLSA Collective Plaintiffs would economically injure Plaintiff and the FLSA Collective Plaintiffs and violated state and federal laws.
18. Throughout the course of his employment at Matiz, Plaintiff regularly worked six (6) days per week.
19. Plaintiff worked from 3:00 pm until 12:00 am; less a thirty (30) minute meal break. Plaintiff regularly worked fifty-one (51) hours per week for Defendants.
20. In 2015, Plaintiff was paid a salary of \$13.00 per hour
21. From 2016 through the end of his employment, Plaintiff salary was \$15.00 per hour
22. Plaintiff was paid in a mix of check and cash, and would always receive \$225.00 per week in check, and the remainder would be paid in cash.

23. Plaintiff received his checks bi-weekly, and was paid his cash salary every week.
24. Plaintiffs and the FLSA Collective Plaintiffs often worked in excess of forty (40) hours per workweek.
25. Defendants unlawfully failed to pay Plaintiff and the FLSA Collective Plaintiffs one and one-half times their regular rate of pay for hours worked in excess of forty (40) hours per workweek.
26. Defendants failed to provide Plaintiff with a written notice of his rate of pay and failed to keep proper payroll records as required under New York law.
27. Plaintiff had no hiring, firing or disciplinary authority in his job.
28. Plaintiff did not set or design the restaurant's menu.
29. Defendant Quesada set Plaintiff's schedule, hired Plaintiff and set his pay rate, and issued him with his cash payments.

FIRST CAUSE OF ACTION

**Fair Labor Standards Act-Overtime Wages Brought By Plaintiff on Behalf of
Themselves and the FLSA Collective Plaintiffs**

30. Plaintiff, individually and on behalf of the FLSA Collective Plaintiffs, re-alleges and incorporates by reference all allegations in all preceding paragraphs.
31. The overtime wage provisions set forth in the FLSA, 29 USC §§ 201 *et seq.*, and the supporting federal regulations apply to Defendants and protect Plaintiff, and the FLSA Collective Plaintiffs.

32. Defendants have willfully failed to pay Plaintiff and the FLSA Collective Plaintiffs the overtime wages for hours worked in excess of forty (40) hours in a workweek.

33. As a result of Defendants' unlawful acts, Plaintiff and the FLSA Collective Plaintiffs have been deprived of overtime compensation and other wages in an amount to be determined at trial, and are entitled to the recovery of such amount, liquidated damages, attorneys' fees, costs and other compensation pursuant to the FLSA.

SECOND CAUSE OF ACTION
New York Labor Law-Unpaid Overtime

34. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.

35. The overtime wage provisions of Article 19 of the New York Labor Law and its supporting regulations apply to Defendants and protect Plaintiff.

36. Defendants have willfully failed to pay Plaintiff the overtime wages for hours he worked in excess of forty (40) hours in a workweek.

37. Defendants' knowing or intentional failure to pay Plaintiff overtime wages for hours worked in excess of forty (40) hours per week is a willful violation of the New York Labor Law Article 19 § 650, *et seq.* and its supporting regulations.

38. As a result of Defendants' unlawful acts, Plaintiff has been deprived of overtime compensation and other wages in an amount to be determined at trial, and is entitled to the recovery of such amount, liquidated damages, attorneys' fees, pre and post judgment interest, costs and other compensation

THIRD CAUSE OF ACTION
New York Labor Law-Record Keeping Violations

39. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.
40. Defendants failed to make, keep and preserve accurate records with respect to Plaintiff, including hours worked each workday, and total hours worked each week, as required by the NYLL and its supporting regulations.
41. Defendants failed to provide Plaintiff with a written notice of rate of pay as required by NYLL § 195.
42. Defendants' failure to make, keep and preserve accurate records was willful.
43. As a result of Defendants' willful and unlawful conduct, Plaintiff is entitled to an award of damages, in an amount to be determined at trial, costs and attorneys' fees, as provided by NYLL § 198.

PRAYER FOR RELIEF

44. WHEREFORE, Plaintiff, individually and on behalf of the FLSA Collective Plaintiffs pray for relief as follows:
 - a. An award of damages, according to proof, including liquidated damages, to be paid by Defendants;
 - b. A declaratory judgment that the practices complained of herein are unlawful under the FLSA and New York law;
 - c. Designation of this action as a collective action pursuant to the FLSA on behalf of the FLSA Collective Plaintiffs and ordering the prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated member of the FLSA opt-in class, apprising them of the pendency of this action,

and permitting them to assert timely FLSA claims by filing individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b);

- d. Designation of Plaintiff as representative plaintiff of the FLSA Collective Plaintiffs;
- e. Penalties available under applicable laws;
- f. Costs of the action incurred herein, including expert fees;
- g. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216, New York Labor Law § 663 and all other applicable statutes;
- h. Pre-judgment and post-judgment interest, as provided by law; and
- i. Such other and further legal and equitable relief as this Court deems necessary, just and proper.

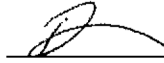
DEMAND FOR JURY TRIAL

Plaintiff on behalf of himself and the FLSA Collective Plaintiffs hereby demand a jury trial on all causes of action and claims with respect to which they have a right.

Dated: New York, New York
October 4, 2018

Respectfully submitted,

The Klein Law Group P.C.

By:  _____

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Matiz Latin Cuisine Sued by Ex-Cook Over Allegedly Unpaid OT Wages](#)
