

1 Yesy Sanchez (YS-0502)  
2 Ariadne Panagopoulou (AP-2202)  
3 Pardalis & Nohavicka, LLP  
4 3510 Broadway, Suite 201  
5 Astoria, NY 11106  
6 Telephone: (718) 777-0400  
7 Facsimile: (718) 777-0599  
8 *Attorneys for the Plaintiff*

6 **UNITED STATES DISTRICT COURT**  
7 **SOUTHERN DISTRICT OF NEW YORK**

8 Edgar Geovany Yanqui Chaca, *on behalf of* )  
9 *himself and others similarly situated,* )  
10 *Plaintiff,* )

Civil Case No.:

11 -v-

**FLSA COLLECTIVE ACTION**

**COMPLAINT**

12 YS Realty II LLC d/b/a Re Sette, and Tal )  
13 Sheinman, *jointly and severally,* )  
14 *Defendants.* )

16 **NATURE OF THE ACTION**

17  
18 1. Plaintiff Edgar Geovany Yanqui Chaca ("Plaintiff"), on behalf of himself and  
19 others similarly situated, brings this action under the Fair Labor Standards Act ("FLSA"), 29  
20 U.S.C. §§ 201 *et. seq.* in order to remedy Defendants' wrongful withholding of Plaintiff's,  
21 overtime compensation, late payment of wages and misappropriated tips. Plaintiff also brings  
22 these claims under New York Labor Law ("NYLL"), Article 6, §§ 190 *et seq.*, as well as the  
23 supporting New York State Department of Labor Regulations for violations of overtime wages,  
24 late payment of wages, misappropriation of tips, spread-of-hours pay, and notice and record-  
25 keeping violations.  
26  
27  
28

**SUMMARY**

1  
2 2. Plaintiff was employed by Defendants, YS Realty II LLC d/b/a Resette and Tal  
3 Sheinman, ("Defendants"), from June 2016 to December 2016. Plaintiff was employed as a  
4 bartender.

5  
6 3. Defendants own and operate Resette, an Italian restaurant located at 7 West 45<sup>th</sup>  
7 Street, New York, NY.

8 4. Resette has approximately 24 to 30 tables, in addition to a private dining area  
9 which has its own bar, that is used for private events.

10 5. During the period of his employment, the Plaintiff was required to work for  
11 Defendants for more than forty (40) hours per week.

12 6. Defendants failed to pay the Plaintiff his overtime wages for all the hours he  
13 worked above forty (40) hours per week.

14 7. To avoid paying Plaintiff overtime, Defendants provided Plaintiff with two  
15 different access codes to clock in and out with.

16 8. In addition, from June 2016 to September 2016, Defendants misappropriated  
17 Plaintiff's tips by withholding Plaintiff's portion of the tips from the mandated tip pool. Despite  
18 constant requests by Plaintiff, Defendants refused to provide him with any of his tips for this  
19 period.  
20

21 9. Plaintiff did not start receiving tips from the mandated pool until September of  
22 2016.  
23

24 10. Defendants engaged in their unlawful conduct pursuant to a corporate policy of  
25 minimizing labor costs and denying employees lawful compensation by knowingly violating the  
26 FLSA and NYLL.  
27  
28

1 11. As a result of Defendants' actions, Plaintiff has suffered great hardship and  
2 damages.

3 12. Defendants' conduct extended beyond the Plaintiff to all other similarly situated  
4 employees. Plaintiff seeks certification of this action as a collective action on behalf of himself  
5 individually and those other similarly situated employees and former employees of Defendants  
6 pursuant to 29 U.S.C. § 216(b).  
7

8 **JURISDICTION AND VENUE**

9 **Federal Question Jurisdiction and Supplemental Jurisdiction**

10 13. This Court has original subject matter jurisdiction over this action under 28  
11 U.S.C. § 1331 because the civil action herein arises under the laws of the United States, namely,  
12 the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* Additionally, this Court also has  
13 supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. §1367(a).  
14

15 **Personal Jurisdiction**

16 14. This Court may properly maintain personal jurisdiction over Defendants under  
17 Rule 4 of the Federal Rules of Civil Procedure because Defendants' contacts with this state and  
18 this judicial district are sufficient for exercise of jurisdiction over Defendants so as to comply  
19 with traditional notions of fair play and substantial justice.  
20

21 **Venue**

22 15. Venue is proper in the Southern District of New York under 28 U.S.C. §§ 1391  
23 (b) (1) and (2) because Defendants reside and conduct business in this judicial district and  
24 because a substantial part of the acts or omissions giving rise to the claims set forth herein  
25 occurred in this judicial district.  
26  
27  
28

**THE PARTIES**

**Plaintiff**

**Edgar Geovany Yanqui Chaca**

1  
2  
3 16. Plaintiff Edgar Geovany Yanqui Chaca ("Plaintiff") is an adult individual  
4 residing in the state of New York, County of Queens.

5  
6 17. Plaintiff is a covered employee within the meaning of the FLSA, 29 U.S.C. §  
7 203(e) and the NYLL § 190.

8 18. Plaintiff worked as a bartender at the Resette restaurant, located at 7 w. 45<sup>th</sup> Street,  
9 New York, NY, from June 2016 to December 2016.

10 19. Plaintiff regularly handled goods in interstate commerce during his employment,  
11 such as food and beverages, which were made from ingredients imported from outside the State  
12 of New York.

13  
14 20. From June 2016 to December 2016, Plaintiff worked (6) six days per week, from  
15 Monday through Saturday. His hours from Monday through Wednesday and Friday were 11:30  
16 a.m. to 11:30 p.m., Thursday from 11:00 a.m. to 4:00 p.m. and Saturdays from 10:00 a.m. to  
17 5:00 p.m.

18  
19 21. Plaintiff's main duties consisted of preparing and serving drinks to restaurant  
20 patrons.

21 22. On Saturdays Plaintiff was also responsible for checking liquor inventory and  
22 restocking the same.

23  
24 23. Throughout Plaintiff's employment with Defendants, Defendants utilized a time  
25 clock system to keep track of Plaintiff's hours of work. For this time clock system, employees  
26 were provided PIN numbers and would enter their PIN when they would clock in and clock out.

27 24. However, Defendants made Plaintiff use two different numbers so that his hours  
28

1 would be divided and thus not exceed forty (40) hours and not pay Plaintiff his earned overtime  
2 wages. For instance, when Plaintiff was performing non-bartender duties he was instructed to  
3 clock in using a different PIN Number to avoid recording overtime.

4 25. When Plaintiff was hired, he was promised six hundred dollars (\$600.00) per  
5 week, in addition to tips with the understanding that this amount would constitute payment for a  
6 regular 40-hour week.  
7

8 26. Plaintiff was not informed, nor did he agree, that the six hundred dollars  
9 (\$600.00) constituted payment for all hours worked, including overtime hours.

10 27. Plaintiff received inaccurate paystubs that did not accurately reflect the actual  
11 hours worked. Instead, the paystubs provided by Defendants indicated that Plaintiff was paid  
12 three hundred dollars (\$300.00) for forty (40) hours worked and three hundred dollars (\$300.00)  
13 for "Misc. Pay" totaling \$600.00.  
14

15 28. From June 2016 to September 2016, Plaintiff did not receive any tips.

16 29. Plaintiff complained several times to his manager, Alex Sacchetti, and to  
17 Defendant Tal Sheinman about not receiving any tips, however, Defendants were unresponsive.  
18

19 30. In September 2016, Plaintiff started receiving some of his tips, but Defendants  
20 refused Plaintiff's request to be provided with a statement of tips received and collected by the  
21 mandated tip pool.

22 31. Moreover, Defendants would consistently pay Plaintiff late, typically, one month  
23 after his wages were due.  
24

25  
26 32. In addition to late payments, Plaintiff was issued numerous checks that resulted  
27 in bank fees due to insufficient funds.  
28

1 33. Defendants have failed to pay Plaintiff spread-of-hours compensation of one  
2 hour's pay at the basic minimum hourly wage rate for each day during which Plaintiff worked a  
3 shift which exceeded ten (10) hours.

4 34. Plaintiff was not provided with an accurate notice containing the rate and basis  
5 of his pay; the designated pay date; and the employer's name, address and telephone number at  
6 the time of hiring or at any point thereafter.

7 35. Upon information and belief, while Defendants employed Plaintiff, they failed to  
8 post notices explaining the rights of employees under the FLSA and NYLL and failed to inform  
9 Plaintiff of such rights.

10 36. Throughout the duration of his employment, Plaintiff did not have any  
11 supervisory authority over any of Defendants' employees, nor did he exercise discretion or  
12 independent judgment with respect to matters of significance.

13 37. Plaintiff was not allowed to hire, fire, or discipline any restaurant personnel. Nor  
14 was Plaintiff allowed to set an employee's schedule or negotiate his pay.

15 38. Plaintiff's final paycheck was unreasonably withheld by Defendants who  
16 attempted to pressure Plaintiff into signing a general release in exchange for his earned wages.  
17 Plaintiff refused.

18 39. Plaintiff consented in writing to be a party to the FLSA claims in this action,  
19 pursuant to 29 U.S.C. § 216(b).

20 40. Plaintiff has personal knowledge of other employees of Defendants who are  
21 similarly situated and who also worked hours for which they were not paid minimum and  
22 overtime wages.  
23  
24  
25  
26  
27  
28

1 41. From conversations in the workplace, Plaintiff also became aware of other  
2 employees who were continuously paid late and received checks that bounced.

3 **Corporate Defendant**

4 **YS Realty II LLC d/b/a Re Sette**

5 42. YS Realty II LLC d/b/a Resette ("Resette" or "Corporate Defendant") is a  
6 domestic corporation organized and existing under the laws of the State of New York. It is  
7 located 7 w. 45<sup>th</sup> Street, New York, NY 10036.

8 43. Resette is a New York sit-down Italian restaurant engaged in the retail sale of  
9 food and beverage items.

10 44. Resette is open Seven (7) days per week for numerous hours per day according to  
11 its website: <http://www.resette.com/aboutus>. It employs a number of full-time personnel.

12 45. Resette has seating capacity for one hundred and twenty (120) guests in its dining  
13 area, and sixty ("60") guests in its private event room (<http://www.resette.com/aboutus>).

14 46. At all relevant times, Resette was a covered employer within the meaning of the  
15 FLSA, 29 U.S.C. § 203(d) and the NYLL § 190.

16 47. At all relevant times, Resette maintained control, oversight, and direction over  
17 the Plaintiff, including timekeeping, payroll, and other employment practices that applied to him.

18 48. At all relevant times, Resette was "an enterprise engaged in commerce" within  
19 the meaning of the FLSA, 29 U.S.C. § 203(s)(1)(A) because its employees were handling food  
20 made from ingredients imported from out of state and distributed in New York. In addition,  
21 Resette conducted business with vendors and other businesses outside the State of New York  
22 and engaged in credit card transactions involving banks and other institutions outside the State  
23 of New York.  
24  
25  
26  
27  
28

1 49. Upon information and belief, at all relevant times, Resette annual gross volume  
2 of sales made, or business done, was not less than \$500,000.00, exclusive of separate retail excise  
3 taxes, within the meaning of the FLSA, 29 U.S.C. § 203(s)(1)(a)(ii).

4 **Individual Defendant**

5 **Tal Sheinman**

6  
7 50. Upon information and belief, at all relevant times, Tal Sheinman ("Sheinman")  
8 was, at the time of Plaintiff's employment, owner, principal, authorized operator, manager,  
9 shareholder and/or agent of Corporate Defendant.

10  
11 51. At all relevant times throughout Plaintiff's employment, Sheinman had the  
12 discretionary power to create and enforce personnel decisions on behalf of the Corporate  
13 Defendant, including but not limited to: hiring and terminating employees; setting and  
14 authorizing issuance of wages; maintaining employee records; setting Plaintiff's schedule;  
15 instructing and supervising Plaintiff; and otherwise controlling the terms and conditions for the  
16 Plaintiff while he was employed by Defendants.

17  
18 52. At all relevant times throughout Plaintiff's employment, Sheinman was actively  
19 involved in the day-to-day operations of Corporate Defendant and was in charge of its finances.

20  
21 53. At all relevant times throughout Plaintiff's employment, Sheinman was a "covered  
22 employer" within the meaning of the FLSA and the NYLL, and employed or jointly employed  
23 Plaintiff, and is personally liable for the unpaid wages sought herein, pursuant to 29 U.S.C. §  
24 203(d).



**COLLECTIVE ACTION ALLEGATIONS**

1  
2 54. Pursuant to 29 U.S.C. §§ 203, 206, 207, and 216(b), Plaintiff brings his First,  
3 Second, and Third causes of action as a collective action under the FLSA on behalf of himself  
4 and the following collective:

5 All persons employed by Defendants at any time since January 16,  
6 2014, and through the entry of judgment in this case (the “Collective  
7 Action Period”) who worked as bartenders, waiters, bussers, runners,  
8 delivery workers, and other tipped employees (the “Collective Action  
9 Members”).  
10

11 55. A collective action is appropriate in these circumstances because Plaintiff and the  
12 Collective Action Members are similarly situated, in that they were all subject to Defendants'  
13 illegal policies of failing to pay overtime premiums for work performed in excess of forty (40)  
14 hours each week. In addition, Plaintiff and the collective action members were all victims of  
15 Defendants' policy of misappropriating employees' tips and paying employees late.  
16

17 56. Plaintiff and the Collective Action Members were also victims of Defendants'  
18 policy of interfering with the clock in system by requiring employees use two separate PIN  
19 numbers so they do not go over forty (40) hours.  
20

21 57. Plaintiff and the Collective Action Members have substantially similar job duties  
22 and are paid pursuant to a similar, if not the same, payment structure.  
23

24 58. The claims of the Plaintiff stated herein are similar to those of the other  
25 employees.  
26  
27  
28

**FIRST CAUSE OF ACTION**

**Fair Labor Standards Act – Unpaid Overtime Wages**

1  
2  
3 59. Plaintiff and the Collective Action Members reallege and incorporate by reference  
4 the allegations made in all preceding paragraphs as if fully set forth herein.

5  
6 60. At all relevant times, Plaintiff and the Collective Action Members were employees  
7 and employed by Defendants within the meaning of the FLSA, 29 U.S.C. § 203(d), (e)(1), and  
8 (g).

9  
10 61. At all times relevant, Defendants have been employers of Plaintiff and the  
11 Collective Action Members, and were engaged in commerce and/or the production of goods for  
12 commerce within the meaning of 29 U.S.C. §§ 203 (s)(1) and 206 (a).

13  
14 62. The overtime wage provisions set forth in the FLSA, 29 U.S.C. § 207 (a)(1) and  
15 the supporting federal regulations, apply to Defendants and protect Plaintiff and the Collective  
16 Action Members.

17  
18 63. Defendants have failed to pay Plaintiff and the Collective Action Members  
19 overtime wages at a rate of one and one-half times the regular rate at which they were employed  
20 for but under no instance less than one and one-half times the statutory minimum wage for all of  
21 the hours that they worked in excess of forty (40) hours per workweek.

22  
23 64. As a result of Defendants' violations of the FLSA, Plaintiff and the Collective  
24 Action Members have been deprived of overtime compensation and other wages in amounts to  
25 be determined at trial, and are entitled to recovery of such amounts, liquidated damages, attorneys'  
26 fees, costs, and other compensation pursuant to 29 U.S.C. § 216 (b).  
27  
28

1 65. Defendants' unlawful conduct, as described in this Complaint, has been willful  
2 and intentional. Defendants were aware, or should have been aware, that the practices described  
3 in this Complaint were unlawful.

4 66. Defendants have not made a good faith effort to comply with the FLSA with  
5 respect to the compensation of the Plaintiff and the Collective Action Members.  
6

7 67. Defendants failed to post or keep posted conspicuous notices of Plaintiff's rights  
8 as required by the U.S. Department of Labor pursuant to 29 C.F.R. § 516.4, further evincing  
9 Defendants' lack of good faith.

10 68. Because Defendants' violations of the FLSA have been willful, a three-year statute  
11 of limitations applies pursuant to 29 U.S.C. § 255(a).  
12

13 **SECOND CAUSE OF ACTION**

14 **Fair Labor Standards Act – Misappropriation of Tips**

15 69. Plaintiff and the Collective Action Members reallege and incorporate by reference  
16 all allegations in all preceding paragraphs.  
17

18 70. The wage payment provisions of the FLSA, 29 U.S.C. § 203(m) and the supporting  
19 federal regulations 29 C.F.R. §§ 531.50 *et seq.* apply to Defendants, and protect the Plaintiff and  
20 the Collective Action Members.

21 71. Defendants illegally misappropriated the tips of Plaintiff and the Collective Action  
22 Members by withholding a portion of the tips, and refusing to provide statements for tips  
23 collected.  
24

25 72. As a result of Defendants' continuous and willful violations of the FLSA, 29  
26 U.S.C. § 203(m) and the supporting federal regulations 29 C.F.R. §§ 531.50 *et seq.*, Plaintiff and  
27 the Collective Action Members are entitled to damages for the value of the misappropriated  
28

1 gratuities, as well as liquidated damages as provided for by 29 U.S.C. § 216(b), including  
2 reasonable attorneys' fees, and costs.

3 **THIRD CAUSE OF ACTION**

4 **Fair Labor Standards Act – Late Payment of Wages**

5 73. Plaintiff and the Collective Action Members reallege and incorporate by reference  
6 all allegations in all preceding paragraphs.

7 74. The FLSA, 29 U.S.C. §§ 206(a) and 207(a) and the supporting Federal regulations  
8 require employers to pay employees their wages promptly.

9 75. Defendants were required to establish a fixed work period with respect to the  
10 payment of Plaintiff and the Collective Action Members pursuant to 29 C.F.R. § 553.224.

11 76. Defendants were also required to pay overtime compensation earned in a particular  
12 workweek on the regular pay day for the period in which the workweek ended and, in no event,  
13 delay compensation for a period longer than reasonably necessary pursuant to 29 C.F.R. §  
14 778.106.

15 77. Defendants have violated the FLSA, 29 U.S.C. §§ 207(a), 206(a) and the  
16 supporting federal regulations, 29 C.F.R. § 778.106 by consistently and repeatedly failing to pay  
17 Plaintiff and the Collective Action Members their minimum and overtime wages at the regular  
18 pay day as required.

19 78. Defendants' violation of the FLSA was willful and intentional since Plaintiff had  
20 repeatedly addressed the issue of delayed payments to Defendants on multiple occasions.

21 79. Due to Defendants' failure to pay Plaintiff and the Collective Action Members  
22 their required compensation for any workweek at the regular pay day, Plaintiff and the Collective  
23 Action Members have suffered damages and are entitled to an amount of liquidated damages  
24  
25  
26  
27  
28

1 equal to the amount of the late payments, as well as, attorneys' fees, and costs pursuant to 29  
2 U.S.C. § 216(b) and 29 C.F.R. § 790.21.

3 **FOURTH CAUSE OF ACTION**

4 **New York Labor Law – Unpaid Overtime Wages**

5 80. Plaintiff realleges and incorporates by reference all allegations in all preceding  
6 paragraphs.

7  
8 81. Defendants have engaged in a widespread pattern, policy, and practice of violating  
9 the NYLL, as detailed in this Complaint.

10 82. At all relevant times referenced herein, Plaintiff has been an employee of  
11 Defendants, and Defendants have been employers of Plaintiff within the meaning of the NYLL  
12 §§ 190, 651 (5), 652, and the supporting New York State Department of Labor Regulations.

13  
14 83. The overtime wage provisions as set forth in NYLL §§ 190 *et seq.* and the  
15 supporting New York State Department of Labor Regulations apply to Defendants and protect  
16 Plaintiff.

17  
18 84. Defendants have failed to pay Plaintiff proper overtime which he was entitled to at  
19 a wage rate of one and one-half times his regular rate but under no instance less than one and one-  
20 half times the statutory minimum wage as defined by the New York State Department of Labor  
21 regulations, 12 N.Y.C.R.R. Part 146-1.4.

22  
23 85. Through their knowing or intentional failure to pay Plaintiff proper overtime wages  
24 for hours worked in excess of forty (40) hours per workweek, Defendants have violated the NYLL  
25 §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

26 86. Defendants' failure to pay Plaintiff overtime compensation was willful within the  
27 meaning of NYLL § 663.  
28

1 87. Defendants also failed to post conspicuous notices of the Plaintiff's rights under  
2 the law, as required by the NYLL § 661 and the New York State Department of Labor  
3 Regulations, 12 N.Y.C.R.R. Part 146-2.4, further evincing Defendants' lack of good faith.

4 88. Due to Defendants' violations of the NYLL, Plaintiff is entitled to recover from  
5 Defendants him unpaid overtime wages, liquidated damages as provided for by the NYLL,  
6 reasonable attorneys' fees and costs of the action, pre-judgment and post-judgment interest,  
7 pursuant to NYLL § 198 (1-a).  
8

9 **FIFTH CAUSE OF ACTION**

10 **New York Labor Law – Misappropriation of Tips**

11 89. Plaintiff realleges and incorporates by reference all allegations in all preceding  
12 paragraphs.  
13

14 90. The wage payment provisions of Article 6 of the NYLL and the supporting New  
15 York State Department of Labor Regulations 12 N.Y.C.R.R. Part 146 *et seq.* apply to  
16 Defendants, and protects Plaintiff.  
17

18 91. Defendants were prohibited from demanding, accepting or retaining, directly or  
19 indirectly, any part of the gratuities received by the Plaintiff pursuant to NYLL Article 6, § 196-  
20 d and 12 N.Y.C.R.R. §§ 146-2.16(b) and 146-2.18.

21 92. Defendants illegally misappropriated the Plaintiff's tips by withholding said tips  
22 from Plaintiff.  
23

24 93. Upon information and belief, Defendants failed to establish, maintain and  
25 preserve for at least six (6) years accurate tip records showing the amount, shares and daily log  
26 of tips collected by each employee at each position in violation of 12 N.Y.C.R.R. § 146-2.17.  
27  
28

1 94. As a result of Defendants' continuous and willful violations of the NYLL § 196-  
2 d and the supporting New York State Department of Labor Regulations, 12 N.Y.C.R.R. Part 146  
3 *et seq.*, Plaintiff is entitled to damages for the value of the misappropriated gratuities, liquidated  
4 damages as provided for by NYLL § 198(1-a), reasonable attorneys' fees, costs, and pre-  
5 judgment and post-judgment interest.  
6

7 **SIXTH CAUSE OF ACTION**

8 **New York Labor Law – Late Payment of Wages**

9 95. Plaintiff realleges and incorporates by reference all allegations in all preceding  
10 paragraphs.  
11

12 96. Defendants were required to pay Plaintiff weekly in accordance with the agreed  
13 terms of his employment, and in any event not less frequently than semi-monthly, on regular pay  
14 days designated in advance by Defendants pursuant to NYLL § 191(d).  
15

16 97. Defendants have violated NYLL § 191(d) by consistently and repeatedly failing  
17 to pay Plaintiff his minimum and overtime wages at the agreed upon weekly day as required.  
18

19 98. Defendants' violation of the NYLL was willful and intentional since Plaintiff had  
20 repeatedly addressed the issue of delayed payments to Defendants on multiple occasions.  
21

22 99. Due to Defendants' failure to pay Plaintiff his required compensation at the agreed  
23 upon weekly date, Plaintiff has suffered damages and is entitled to an amount of liquidated  
24 damages equal to the amount of the late payments, as well as, pre-judgment interest, attorneys'  
25 fees, and costs pursuant to NYLL § 198(1-a).  
26  
27  
28

**SEVENTH CAUSE OF ACTION**

**New York Labor Law- Spread-of-Hours Pay**

1  
2  
3 100. Plaintiff realleges and incorporates by reference all allegations in all preceding  
4 paragraphs.

5 101. The spread-of-hours provisions as set forth in NYLL §§ 190 *et seq.* and the  
6 supporting New York State Department of Labor Regulations apply to Defendants and protect  
7 Plaintiff.  
8

9 102. Defendants have failed to pay Plaintiff spread-of-hours compensation of one  
10 hour's pay at the basic minimum hourly wage rate for each day during which Plaintiff worked a  
11 shift which exceeded ten (10) hours, as defined by the New York State Department of Labor  
12 regulations, 12 N.Y.C.R.R. Part 146-1.6.  
13

14 103. Through their knowing or intentional failure to pay Plaintiff spread-of-hours  
15 compensation, Defendants have willfully violated the NYLL §§ 190 *et seq.*, and the supporting  
16 New York State Department of Labor Regulations.  
17

18 104. Due to Defendants' violations of the NYLL, Plaintiff is entitled to recover from  
19 Defendants his unpaid spread-of-hours pay, liquidated damages as provided for by the NYLL §  
20 198(1-a), reasonable attorneys' fees, costs, and pre-judgment and post-judgment interest.  
21

22 **EIGHTH CAUSE OF ACTION**

23 **New York Labor Law – Failure to Provide Notice at the Time of Hiring**

24 105. Plaintiff realleges and incorporates by reference all allegations in all preceding  
25 paragraphs.  
26

27 106. Defendants have failed to provide Plaintiff, at the time of hiring or at any point  
28 thereafter, a notice containing the rate of pay and basis thereof, whether paid by the hour, shift,



1 day, week, salary, piece, commission, or other; the regular pay day designated by the employer;  
2 the physical address of the employer's main office or principal place of business; the telephone  
3 number of the employer, and anything otherwise required by law, in violation of NYLL § 195(1).

4 107. Due to Defendants' violations of the NYLL § 195(1), Plaintiff is entitled to recover  
5 from Defendants statutory damages of Fifty dollars (\$50) per workday that the violation occurred,  
6 up to a maximum of Five Thousand Dollars (\$5,000), pursuant to NYLL § 198 (1-b).

8 **NINTH CAUSE OF ACTION**

9 **New York Labor Law – Failure to Provide Wage Statements**

10 108. Plaintiff realleges and incorporates by reference all allegations in all preceding  
11 paragraphs.

12 109. Defendants have failed to provide Plaintiff with wage statements listing, *inter alia*,  
13 all his hours of work; rate of pay; basis of pay; the period covered; and overtime pay, in violation  
14 of NYLL § 195(3).

15 110. Due to Defendants' violations of the NYLL, Plaintiff is entitled to recover from  
16 Defendants statutory damages of Two Hundred and Fifty dollars (\$250) per workday that the  
17 violation occurred, up to a maximum of Five Thousand Dollars (\$5,000), pursuant to NYLL §  
18 198 (1-d).

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff seeks the following relief:

21 A. Designating this action as a collective action and authorizing prompt issuance of  
22 notice pursuant to 29 U.S.C. § 216(b) to all putative collective action members, apprising them  
23 of the pendency of this action, and permitting them promptly to file consents to be Plaintiff in  
24 the FLSA claims in this action;  
25  
26  
27  
28

1 B. An order tolling the statute of limitations;

2 C. Issuance of a declaratory judgment that the practices complained of in this  
3 complaint are unlawful under the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, New York  
4 Labor Law, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor  
5 Regulations;

6  
7 D. Unpaid overtime pay and misappropriated tips under the FLSA and an additional  
8 and equal amount as liquidated damages pursuant to 29 U.S.C. § 216(b) and the supporting  
9 United States Department of Labor regulations;

10 E. Liquidated damages equal to the amount of all late payments received by  
11 Plaintiff, pursuant to 29 U.S.C. § 216(b) and 29 C.F.R. § 790.21;

12  
13 F. Unpaid overtime wages, spread-of-hours pay and misappropriated tips, under  
14 NYLL, and an additional and equal amount as liquidated damages pursuant to NYLL §198(1-a)  
15 and § 663(1);

16 G. Liquidated damages equal to the amount of all late payments received by  
17 Plaintiff, pursuant to NYLL § 198 (1-a);

18  
19 H. Civil penalties of One Thousand One Hundred Dollars (\$1,100) for each of  
20 Defendants' willful and repeated violations of the FLSA pursuant to 29 U.S.C. § 216(b);

21 I. An award of statutory damages for Defendants' failure to provide Plaintiff with a  
22 wage notice at the time of hiring or any time thereafter pursuant to NYLL § 198 (1-b);

23  
24 J. An award of statutory damages for Defendants' failure to provide Plaintiff with  
25 wage statements pursuant to NYLL § 198 (1-d);

26 K. A permanent injunction requiring Defendants to pay all statutorily required wages  
27 pursuant to the FLSA and NYLL;  
28

1 L. If liquidated damages pursuant to FLSA, 29 U.S.C. § 216(b), are not awarded, an  
2 award of prejudgment interest pursuant to 28 U.S.C. § 1961;

3 M. An award of pre-judgment interest of nine per centum per annum (9%) pursuant  
4 to the New York Civil Practice Law and Rules §§ 5001-5004;

5 N. An award of post-judgment interest pursuant to 28 U.S.C. § 1961 and/or the New  
6 York Civil Practice Law and Rules § 5003;

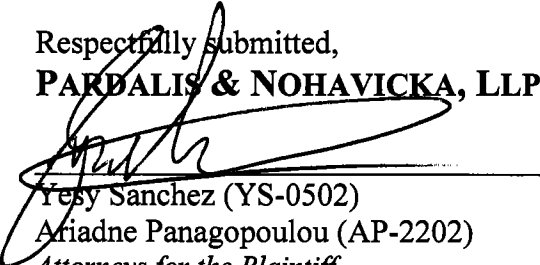
7 O. An award of attorney's fees, costs, and further expenses up to fifty dollars,  
8 pursuant to 29 U.S.C. § 216(b), and NYLL §§ 198 and 663(1);

9 P. Such other relief as this Court shall deem just and proper.  
10  
11

12  
13 Dated: January 17, 2017

14 Respectfully submitted,  
15 **PARDALIS & NOHAVICKA, LLP**

16 By:

  
17 Yesy Sanchez (YS-0502)  
18 Ariadne Panagopoulou (AP-2202)  
19 *Attorneys for the Plaintiff*  
20 35-10 Broadway, Suite 201  
21 Astoria, New York 11106  
22 Tel: 718.777.0400 | Fax: 718.777.0599  
23 Email: yesy@pnlawyers.com  
24  
25  
26  
27  
28

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Accuses YS Realty II LLC, Owner of Numerous Labor Violations](#)

---