

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALEXIS FLORES and VIRGINIA GOOLD, for themselves and all others similarly situated, Plaintiffs,)	
v.)	Case No. _____
EAGLE DINER CORP., JAMES ROKOS, MARIA ROKOS and MARKO ROKOS, Defendants.)	JURY TRIAL DEMANDED

COLLECTIVE AND CLASS ACTION COMPLAINT

Alexis Flores and Virginia Goold (“Plaintiffs”), by and through their undersigned attorneys, hereby make the following allegations against Eagle Diner Corp., James Rokos, Maria Rokos and Marko Rokos (collectively “Defendants”) concerning their acts and status upon actual knowledge and concerning all other matters upon information, belief and the investigation of their counsel:

NATURE OF THE ACTION

1. Plaintiffs bring this action to redress Defendants’ violations of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201, *et seq.* (“FLSA”) and the Pennsylvania Minimum Wage Act of 1968, 43 P.S. §§ 333.101, *et seq.* (“PMWA”).
2. Plaintiffs bring their FLSA claims on a collective basis pursuant to 29 U.S.C. § 216(b) for all people who worked as an Eagle Diner Server during the maximum limitations period (the “FLSA collective”).
3. Plaintiffs bring their PMWA claims on a class action basis pursuant to Fed. R. Civ. P. 23 for all people who worked as Eagle Diner Servers since March 23, 2015 (the “putative Class”).

JURISDICTION AND VENUE

4. This Court has jurisdiction over Plaintiff's FLSA claims pursuant to 29 U.S.C. §216(b) and 28 U.S.C. §§ 1331.

5. This Court has supplemental jurisdiction over Plaintiff's Pennsylvania claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

THE PARTIES

7. Plaintiff Alexis Flores is an individual who resides in Philadelphia County, PA. From August 2016 to August 2017, Ms. Flores worked as a Server at Eagle Diner in Warminster, PA. Throughout this time, Ms. Flores worked about 50-60 hours per week, was paid at the tipped minimum wage rate for all of her work and made required contributions into Defendants' tip pool. Ms. Flores is personally familiar with, and has been personally affected by, the policies and practices described in this Complaint.

8. Plaintiff Virginia Goold is an individual who resides in Bucks County, PA. From October 2014 to May 2017, Ms. Goold worked as a Server at Eagle Diner in Warminster, PA. Throughout this time, Ms. Goold worked about 40-60 hours per week, was paid at the tipped minimum wage rate for all of her work and made required contributions into Defendants' tip pool. Ms. Goold is personally familiar with, and has been personally affected by, the policies and practices described in this Complaint.

9. Eagle Diner Corp. is a Pennsylvania business corporation that, throughout the relevant period, has owned and operated the Eagle Diner at 739 W. Street Road in Warminster, PA.

10. James Rokos is the President and Treasurer of Eagle Diner Corp. Throughout the relevant period, James Rokos has been involved in the day-to-day business operation of Eagle

Diner, exercised operational control over Eagle Diner and controlled significant business functions of Eagle Diner, including: determining employee salaries, making hiring decisions, controlling corporate checking and payroll accounts, tracking the hours and paying the wages at issue in this matter and acting for Eagle Diner to devise, direct, implement and supervise the wage and hour policies and practices challenged in this action.

11. Maria Rokos is a co-owner of Eagle Diner and the wife of James Rokos. During the relevant period, Maria Rokos has been involved in the day-to-day business operation of Eagle Diner, exercised operational control over Eagle Diner and controlled significant business functions of Eagle Diner, including: determining employee salaries, making hiring decisions, controlling corporate checking and payroll accounts, tracking the hours and paying the wages at issue in this matter and acting for Eagle Diner to devise, direct, implement and supervise the wage and hour policies and practices challenged in this action.

12. Marko Rokos is the son of James and Maria Rokos. During the relevant period, Marko Rokos has been involved in the day-to-day business operation of Eagle Diner, exercised operational control over Eagle Diner and controlled significant business functions of Eagle Diner, including: determining employee salaries, making hiring decisions, controlling corporate checking and payroll accounts, tracking the hours and paying the wages at issue in this matter and acting for Eagle Diner to devise, direct, implement and supervise the wage and hour policies and practices challenged in this action.

MATERIAL FACTS

13. Eagle Diner is a restaurant located at 739 W. Street Road in Warminster, PA and is open 24 hours a day, 365 days a year.

14. Defendants employ Servers to wait on customers in Eagle Diner, answer questions about the menu, take food and drink orders, place food and drink orders, collect food and drink orders from service areas, deliver food and drinks to customers and provide excellent customer service.

15. Maria Rokos prepares a monthly schedule assigning Servers to work one of four shifts each day, either 8:00am to 3:00pm, 3:00pm to 11:00pm, 11:00pm to 6:00am, or 6:00am to 2:00pm. Maria Rokos keeps the schedule in pencil so Servers' scheduled shifts and hours can be easily changed.

16. Defendants track Servers' work time with a time-clock kept at the cash register.

17. Servers are not allowed to use the time-clock themselves. Instead, James Rokos, Maria Rokos, Marko Rokos and Eagle Diner Managers or Cashiers use the timeclock to punch Servers in and out of work.

Untipped Work Minimum Wage Violation

18. On a daily basis, Defendants require Servers to perform a significant amount of untipped side work that is unrelated to their tipped occupation as a Server ("untipped work"), including:

- Kitchen side-work (performed "off-the-clock" in the kitchen for an hour or more each shift) like cleaning the kitchen "line" area, cleaning microwaves, cleaning toaster ovens, cleaning service trays, picking up kitchen mats, sweeping the kitchen, putting down kitchen mats, checking stock and restocking the refrigerator with creamers, salad dressing, whipped cream, jelly and syrups, checking stock and re-stocking the "line" with food, supplies, plates and "to go" boxes, cutting lemons and filling Sanibuckets;
- Running side-work (performed "on-the-clock" throughout the day for an hour or more per shift) like sweeping the restaurant, vacuuming the restaurant, putting up chairs, cleaning under tables, taking down chairs, cleaning the sneeze guard, window glass and mirrors, lining up tables, cleaning coffee pots and tea urns, cleaning

the syrup dispenser, restocking plates, glasses, cups, napkins, straws, fruit and bread, refilling condiments, salt shakers, pepper shakers, sugar shakers, salad dressing containers, tartar sauce containers, cocktail sauce containers and ketchup containers, filling ice bins and updating the blackboard with specials.

19. Servers routinely spend more than two hours on untipped work in an eight-hour shift (*i.e.*, more than 25% of their work time), not including additional side-work performed “off-the-clock” after their shift has ended.

20. Servers’ untipped work is clearly unrelated to their tipped occupation because it is often performed in the kitchen where no customers are present, during non-peak times between meals when no customers are present, or when Servers are “off-the-clock” and not being paid.

21. Servers working a double-shift are expected to complete the required untipped work assignments in each shift.

22. Although they could easily do so, Defendants do not use the timeclock, or any other method, to record Servers’ performance of untipped work, or maintain any contemporaneous record of Servers’ untipped work.

23. Defendants pay Servers at the tipped minimum wage rate of \$2.83 per hour for all untipped work they perform “on-the-clock” instead of the regular minimum wage rate of \$7.25 per hour.

24. Defendants do not pay Servers any wages for the untipped work they perform “off-the-clock”. At least half of Servers’ untipped work each shift is performed “off-the-clock”.

25. Ms. Flores spent more than 25% of her time each workweek performing untipped work. About half of Ms. Flores’ untipped work was performed “on-the-clock” and paid at the tipped minimum wage rate of \$2.83 per hour with no consideration for the fact she was performing untipped tasks. About half of Ms. Flores’ untipped work was performed “off-the-clock”. Ms.

Flores was never given an option to track or record her “off-the-clock” untipped work and received no wages for this work.

26. Ms. Goold spent more than 25% of her time each workweek performing untipped work. About half of Ms. Goold’s untipped work was performed “on-the-clock” and paid at the tipped minimum wage rate of \$2.83 per hour with no consideration for the fact she was performing untipped tasks. About half of Ms. Goold’s untipped work was performed “off-the-clock”. Ms. Goold was never given an option to track or record her “off-the-clock” untipped work and received no wages for this work.

Invalid Tip Pool Minimum Wage Violation

27. Defendants maintain a mandatory tip pool into which Servers must pay \$2.00 from their tips each hour they work. For example, Defendants require a server who works a seven-hour shift to contribute \$14.00 to the tip pool.

28. Defendants ostensibly collect these pooled tips to provide Bussers with tips in addition to their wages. In truth, Defendants convert Servers’ pooled tips for their own benefit, using these funds to satisfy their wage obligations to Bussers rather than provide them with tips. On occasions when Bussers are not scheduled to work or do not come in to work, the “house” (i.e., Defendants) takes possession of the tip pool and does not distribute these funds.

29. Ms. Flores usually made a required tip pool contribution of about \$10.00 or \$12.00 at the end of her shift, depending on the number of hours she worked. From speaking to other employees at Eagle Diner, Ms. Flores understands that Defendants do not provide Bussers with any tips in addition to, their wages and, instead, either use the tip pool to satisfy their wage obligations to Bussers or keep the tip pool for the “house”.

30. Ms. Goold usually made a required tip pool contribution of about \$10.00 at the end of her shift, depending on the number of hours she worked. From speaking to other employees at Eagle Diner, Ms. Goold understands that Defendants do not provide Bussers with any tips in addition to, their wages and, instead, either use the tip pool to satisfy their wage obligations to Bussers or keep the tip pool for the “house”.

31. Defendants’ improper tip pooling practices violate the tip credit provisions of the FLSA and PMWA, which invalidates Defendants’ tip pool and requires Defendants to pay their Servers at the regular minimum wage rate of \$7.25 per hour for all hours worked.

Overtime Wage Violation

32. Defendants require and permit their Servers to work more than 40 hours per week.

33. Defendants maintain a strict policy requiring Managers and Cashiers to ensure that Servers’ timecards capture only part of their total hours worked each week and, in any event, capture no more than 40 hours per workweek.

34. As a result, Defendants do not create or maintain accurate contemporaneous records of their Servers’ work.

35. Defendants maintain a strict policy against paying wages for hours not recorded by the timeclock. As a result, Servers receive no wages for certain hours they work each week and never receive any overtime premium wages despite routinely working more than 40 hours per week.

36. Ms. Flores routinely worked 50-60 hours per week as a Server for Defendants but, while waiting tables, saw and heard James Rokos and Maria Rokos instruct Managers or Cashiers to “clock everybody out” while they were still working to avoid recording all their hours, specifically overtime hours, on the timeclock. As a result, Defendants did not pay Ms. Flores for

all the hours she worked and never paid her any wages at an overtime premium rate.

37. Ms. Goold routinely worked 40-60 hours per week as a Server for Defendants but, while waiting tables, saw and heard James Rokos and Maria Rokos instruct Managers or Cashiers to “clock everybody out” while they were still working to avoid recording all their hours, specifically overtime hours, on the timeclock. As a result, Defendants did not pay Ms. Goold for all the hours she worked and never paid her any wages at an overtime premium rate.

FLSA COLLECTIVE ACTION ALLEGATIONS

38. Plaintiffs bring their FLSA claims for themselves and all people who worked as an Eagle Diner Server during the maximum limitations period.

39. Plaintiffs belong to the FLSA collective they seek to represent, because they worked as Eagle Diner Servers during the relevant period.

40. The FLSA collective is “similarly situated,” as defined by 29 U.S.C. § 216(b), because its members were subjected to the Company-wide policies and practices described herein.

41. Plaintiffs estimate that the FLSA Collective may include up to several hundred members. Defendants’ payroll and personnel records, among other documents should reveal the total number of people who qualify to participate in the FLSA Collective.

PENNSYLVANIA CLASS ACTION ALLEGATIONS

42. Plaintiffs bring their PMWA claims for claims for themselves and all people who worked as Eagle Diner Servers since March 23, 2015.

43. Class treatment of Plaintiff’s PMWA claims is appropriate because the putative Class satisfies the requirements of Fed. R. Civ. P. 23.

44. The putative Class is so numerous that joinder of all its members would be impracticable. During the relevant period, up to several hundred people have worked as Eagle

Diner Servers.

45. Plaintiffs' claims are typical of the claims of putative Class members, and they have no interests that are antagonistic to, or in conflict with, the interests of the putative Class.

46. There are many questions of law and fact common to the claims of the putative Class members because, *inter alia*, this action concerns the legality of the Company-wide compensation policies and practices described herein. The legality of these policies will be demonstrated by applying generally applicable legal principles to common evidence.

47. Plaintiffs will fairly and adequately represent the interests of the putative Class members and have retained competent and experienced counsel for this purpose.

48. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over questions affecting only individual Class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

49. Allowing Plaintiffs' Pennsylvania wage law claims to proceed as a class action will be superior to requiring the individual adjudication of each Class member's claim, since requiring hundreds of hourly-paid employees to file and litigate individual wage claims would cause an undue burden on Defendants, the Class members and the Courts. Class action treatment will allow a large number of similarly-situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of effort and expenses if these claims were brought individually. Moreover, as the damages suffered by each Class member are relatively small, the expenses and burdens associated with individual litigation would make it difficult for plaintiffs to bring individual claims. Further, the presentation of separate actions by individual Class members could create a risk for inconsistent and varying adjudications, establish

incompatible standards of conduct for Defendants and/or substantially impair or impede the ability of Class members to protect their interests.

COUNT I
VIOLATION OF THE FLSA
Untipped Work Minimum Wage Violation

50. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

51. Defendants are “employers” as defined by 29 U.S.C. § 203(d).

52. Plaintiffs and the FLSA collective members are “employees” as defined by 29 U.S.C. § 203(e)(1).

53. The wages Defendants pay to Plaintiffs and the FLSA collective are “wages” as defined by 29 U.S.C. § 203(m).

54. Defendants are an “enterprise engaged in commerce” within the meaning of 29 U.S.C. § 203(s)(1)(A).

55. Plaintiffs and the FLSA collective are similarly-situated individuals within the meaning of 29 U.S.C. §216(b).

56. 29 U.S.C. § 216(b) expressly allows private plaintiffs to bring collective actions to enforce an employers’ failure to comply with their requirements.

57. Throughout the relevant period, Defendants have been obligated to comply with the FLSA’s requirements, Plaintiffs and the FLSA collective members have been covered employees entitled to the FLSA’s protections, and Plaintiffs and the FLSA collective members have not been exempt from receiving wages required by the FLSA for any reason.

58. The FLSA requires employers to pay employees a minimum wage of \$7.25/hour. *See* 29 U.S.C. §206(b).

59. Under the FLSA's tip-credit provisions, an employer of tipped employees may, under certain circumstances, pay those employees less than \$7.25/hour by taking a "tip credit" against its minimum wage obligation.

60. An employer may not take a "tip credit" when it requires or allows tipped employees to perform untipped tasks that are unrelated to their tipped work (i.e., "dual jobs"); when it requires or allows tipped employees to perform untipped tasks that, although related to their tipped work, exceed 20% of their work hours in any workweek; or when it fails to inform tipped employees of the provisions of the tip-credit subsection of the FLSA. *See* 29 U.S.C. § 203(m) (tip credit provision "shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this subsection").

61. Defendants willfully violate the FLSA by requiring or allowing Servers to perform untipped tasks that are unrelated to their tipped occupation while paying them the tipped minimum wage for all this work.

62. Defendants willfully violate the FLSA by requiring or allowing their Servers to perform untipped tasks that, although related to their tipped work, exceed 20% of their work hours in any workweek while paying them the tipped minimum wage for all this work.

63. Plaintiffs and the FLSA Collective members have been harmed as a direct and proximate result of Defendants' unlawful conduct, which has unlawfully deprived them of legally-mandated wages due for the untipped work they performed.

COUNT II
VIOLATION OF THE FLSA
Invalid Tip Pool Minimum Wage Violation

64. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

65. The FLSA provides that tipped employees are entitled to retain all of the tips they receive but allows the “pooling of tips among employees who customarily and regularly receive tips.” *See* 29 U.S.C. § 203(m).

66. The U.S. Department of Labor Field Operations Handbook provides that, in the context of operating a tip pool, an employer may not retain any of an employee’s tips for any purpose. *See* DOL Field Operations Handbook § 30d04 (12/15/16), citing 29 CFR 531.54.

67. Defendants require Servers to participate in a tip pool as a condition of their employment.

68. Defendants collect pooled tips from Servers under the pretense this money is used to supplement Bussers’ wages. In reality, however, Defendants improperly take possession of Servers’ pooled tips and either retain these funds or use the tip pool to satisfy their wage obligations to Bussers rather than provide them with tips.

69. By engaging in this conduct, Defendants have acted with willful and/or reckless disregard for the FLSA Collective members’ rights under the FLSA.

70. Plaintiffs and the FLSA Collective members have been harmed as a direct and proximate result of Defendants’ unlawful conduct, which has unlawfully deprived them of tip income through the maintenance of an illegal tip pool.

COUNT III
VIOLATION OF THE FLSA
Failure To Pay Overtime Wages

71. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

72. 29 U.S.C. § 207(a)(1) requires employers to pay their employees an overtime rate, equal to at least 1½ times their regular rate of pay, for all hours worked in excess of 40 hours per week.

73. Defendants have intentionally violated this provision of the FLSA through common, Company-wide policies and practices that include: permitting Servers to work more than 40 hours per week; depriving Servers of the ability to make their own timecard entries, maintaining a strict policy against logging all work hours, specifically including overtime hours, on the timeclock; failing to maintain an accurate contemporaneous record of Servers' overtime work; and failing to pay Servers' any wages for their overtime work.

74. By engaging in this conduct, Defendants have acted with willful and/or reckless disregard for the FLSA Collective members' rights under the FLSA.

75. Plaintiffs and the FLSA Collective members have been harmed as a direct and proximate result of Defendants' unlawful conduct because they have been deprived of overtime premium wages owed for overtime work they performed and from which Defendants derived a direct and substantial benefit.

COUNT IV
VIOLATION OF THE PMWA
Invalid Tip Pool Minimum Wage Violation

76. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

77. PMWA Section 3(d)(2) provides that tipped employees are generally entitled to retain all of the tips they receive but allows the "pooling of tips among employees who customarily and regularly receive tips." *See* 43 P.S. § 333.103(d)(2).

78. Defendants require Servers to participate in a tip pool as a condition of their employment.

79. Defendants' tip pool violates the PMWA because Defendants, acting as the "house", improperly take possession of Servers' pooled tips and either retain these funds or use the tip pool to satisfy their wage obligations to Bussers rather than provide them with tips.

80. By engaging in this conduct, Defendants have acted with willful and/or reckless disregard for the putative Class members' rights under the PWMA.

81. Plaintiffs and the putative Class members have been harmed as a direct and proximate result of Defendants' unlawful conduct, which has unlawfully deprived them of tip income through the maintenance of an illegal tip pool.

COUNT V
VIOLATION OF THE PMWA
Failure To Pay Overtime Wages

82. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

83. PMWA Section 4(c) requires employers to pay their employees overtime compensation of "not less than one and one-half times the employee's regular rate" for all hours worked over 40 in a given workweek. *See* 43 P.S. § 333.104(c).

84. Under the PMWA, overtime is calculated based on the number of hours worked in a "workweek", defined in controlling regulations as "a period of 7 consecutive days". *See* 34 Pa. Code § 231.42.

85. Throughout the relevant period, PMWA Section 8 required Defendants to "keep a true and accurate record of the hours worked by each employee and the wages paid to each." *See* 43 P.S. § 333.108.

86. Defendants have intentionally violated these provisions of the PMWA through common, Company-wide policies and practices that include: permitting Servers to work more than 40 hours per week; depriving Servers of the ability to make their own timecard entries, maintaining a strict policy against logging all work hours, specifically including overtime hours, on the timeclock; failing to maintain an accurate contemporaneous record of Servers' overtime work; and failing to pay Servers' any wages for their overtime work.

87. By engaging in this conduct, Defendants have acted with willful and/or reckless disregard for Plaintiff's and the putative Class members' rights under the PMWA.

88. Defendants have no good faith justification or defense for the conduct detailed above, or for failing to pay Plaintiff and the putative Class members all wages mandated by the PMWA.

89. Plaintiffs and the putative Class members have been harmed as a direct and proximate result of the unlawful conduct described here, because they have been deprived of legally-required wages for work they performed from which Defendants derived a direct and substantial benefit.

WHEREFORE, Plaintiffs respectfully pray for an Order:

- a. Certifying this matter to proceed as a collective action with respect to Counts I-III and as a class action with respect to Counts IV-V;
- b. Approving Plaintiffs as adequate Class representatives;
- c. Appointing Stephan Zouras, LLP to serve as Class Counsel;
- d. Finding Defendants willfully violated the applicable provisions of the FLSA and PMWA by failing to pay all required overtime wages to Plaintiff and the collective / class members;
- e. Finding that Defendants willfully violated the applicable provisions of the FLSA and PMWA by maintaining an illegal tip pool;
- f. Granting judgment in favor of Plaintiffs and the collective / class members

- against Defendants, and each of them, jointly and severally, on Counts I-V;
- g. Awarding all available compensatory damages in amounts to be determined;
 - h. Awarding all available liquidated damages in amounts to be determined;
 - i. Awarding pre-judgment interest on all compensatory damages due;
 - j. Awarding a reasonable attorney's fee and reimbursement of all costs and expenses incurred in litigating this action;
 - k. Awarding equitable and injunctive relief precluding the continuation of the policies and practices pled in this Complaint;
 - l. Awarding any further relief the Court deems just, necessary and proper; and
 - m. Maintaining jurisdiction over this action to ensure Defendants' compliance with the foregoing.

JURY DEMAND

Plaintiffs demand a jury trial as to all claims so triable.

Respectfully Submitted,

Dated: March 22, 2018

/s/ David J. Cohen
David J. Cohen
STEPHAN ZOURAS, LLP
604 Spruce Street
Philadelphia, PA 19106
(215) 873-4836

James B. Zouras (*pro hac* forthcoming)
Ryan F. Stephan (*pro hac* forthcoming)
STEPHAN ZOURAS, LLP
205 N. Michigan Avenue, Suite 2560
Chicago, IL 60601
312-233-1550

*Attorneys for Plaintiffs and the Putative
Class and Collective Members*

CONSENT TO JOIN

Flores v. Eagle Diner, et al.
United States District Court, Eastern District of Pennsylvania

Complete and Mail, Fax or E-mail to:

Stephan Zouras, LLP
Eagle Diner Wage Action
205 N. Michigan Avenue, Suite 2560
Chicago, Illinois 60601
Fax: (312) 233-1560
E-mail: lawyers@stephanzouras.com

By signing below, I state that I have been employed as a Server by Eagle Diner within the past three years and hereby consent to join this lawsuit seeking unpaid wages based on Defendants' alleged violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et. seq.*

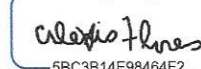
I hereby designate the law firm Stephan Zouras LLP, to represent me for all purposes in this action.

I hereby designate Class Representatives Alexis Flores and Virginia Goold as my agents to make decisions on my behalf concerning this lawsuit, the method and manner of conducting the lawsuit, the entering of an agreement with counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

3/21/2018

Date

DocuSigned by:



5BC3B14E98464F2

Signature

Alexis Flores

Print Name Clearly

***Statute of limitations concerns mandate that you return
this form as soon as possible to preserve your rights.**

CONSENT TO JOIN

Flores v. Eagle Diner, et al.
United States District Court, Eastern District of Pennsylvania

Complete and Mail, Fax or E-mail to:

Stephan Zouras, LLP
Eagle Diner Wage Action
205 N. Michigan Avenue, Suite 2560
Chicago, Illinois 60601
Fax: (312) 233-1560
E-mail: lawyers@stephanzouras.com

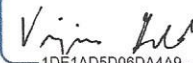
By signing below, I state that I have been employed as a Server by Eagle Diner within the past three years and hereby consent to join this lawsuit seeking unpaid wages based on Defendants' alleged violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et. seq.*

I hereby designate the law firm Stephan Zouras LLP, to represent me for all purposes in this action.

I hereby designate Class Representatives Alexis Flores and Virginia Goold as my agents to make decisions on my behalf concerning this lawsuit, the method and manner of conducting the lawsuit, the entering of an agreement with counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

3/21/2018

Date

DocuSigned by:

1DE1AD5D06DA4A9...

Signature

Virginia Goold

Print Name Clearly

***Statute of limitations concerns mandate that you return
this form as soon as possible to preserve your rights.**

JS 44 (Rev. 06/17)

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

ALEXIS FLORES AND VIRGINIA GOOLD

(b) County of Residence of First Listed Plaintiff Philadelphia Co., PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David J. Cohen, Stephan Zouras LLP
604 Spruce Street., Phila., PA 19106 - (215) 873-4836

DEFENDANTS

EAGLE DINER CORP., JAMES ROKOS, MARIA ROKOS AND MARKO ROKOS

County of Residence of First Listed Defendant Bucks Co., PA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

N/A

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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 - Transfer
- 8 Multidistrict Litigation - Direct File

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 of 1938, 29 U.S.C. Sec. 201 et seq.
 Brief description of cause:
 Failure to pay overtime wages / maintenance of an illegal tip pool.

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE N/A DOCKET NUMBER N/A

DATE SIGNATURE OF ATTORNEY OF RECORD

March 22, 2018 David J. Cohen

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 4335 Teesdale Street, Phila., PA 19136

Address of Defendant: 739 W. Street Road, Warrminster, PA 18974

Place of Accident, Incident or Transaction: Bucks Co., PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:
Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
- 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
- 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes No
- 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

- A. Federal Question Cases:
- 1. Indemnity Contract, Marine Contract, and All Other Contracts
 - 2. FELA
 - 3. Jones Act-Personal Injury
 - 4. Antitrust
 - 5. Patent
 - 6. Labor-Management Relations
 - 7. Civil Rights
 - 8. Habeas Corpus
 - 9. Securities Act(s) Cases
 - 10. Social Security Review Cases
 - 11. All other Federal Question Cases
(Please specify) F.L.S.A., 29 U.S.C. §201 et seq.

- B. Diversity Jurisdiction Cases:
- 1. Insurance Contract and Other Contracts
 - 2. Airplane Personal Injury
 - 3. Assault, Defamation
 - 4. Marine Personal Injury
 - 5. Motor Vehicle Personal Injury
 - 6. Other Personal Injury (Please specify)
 - 7. Products Liability
 - 8. Products Liability — Asbestos
 - 9. All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, David J. Cohen, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: 3/22/18 _____ 74070
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/22/18 _____ 74070
Attorney-at-Law Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

<u>Alexis Flores, et al.</u>	:	CIVIL ACTION
	:	
v.	:	
	:	
<u>Eagle Diner Corp., et al.</u>	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>3/22/18</u>	<u>David J. Cohen</u>	<u>Plaintiffs</u>
Date	Attorney-at-law	Attorney for
<u>215-873-4836</u>	<u>312-233-1560</u>	<u>dcohen@stephanzauras.com</u>
Telephone	FAX Number	E-Mail Address

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Eagle Diner Corp., Owners Hit with FLSA Complaint Over Alleged Invalid Tip Credit](#)
