

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHAO PING LI and JIAN LI, individually and on behalf
of all other employees similarly situated,

Plaintiff,

- against -

HLY CHINESE CUISINE INC. d/b/a New HLY Chinese
Cuisine, HUA YAO, and TAO LIU

Defendants.

Case No.

COLLECTIVE ACTION
COMPLAINT

Plaintiff Chao Ping Li and Jian Li (collectively “Plaintiffs”), individually on their own behalf and on behalf of all others similarly situated, by and through their undersigned attorneys, Hang & Associates, PLLC, hereby file this complaint against the Defendants HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine, HUA YAO, AND TAO LIU (collectively “Defendants”), allege and show the Court the following:

INTRODUCTION

1. This is an action brought by Plaintiffs their own behalf and on behalf of similarly situated employees, alleging violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”) and the New York Labor Law, arising from Defendants’ various willful and unlawful employment policies, patterns and/or practices.

2. Upon information and belief, Defendants have willfully and intentionally committed widespread violations of the FLSA and NYLL by engaging in a pattern and practice of failing to pay their employees, including Plaintiffs, the minimum wages and overtime compensation for all hours worked over forty (40) each workweek.

3. Plaintiffs allege pursuant to the FLSA, that they are entitled to recover from the Defendants: (1) unpaid minimum wage compensation, (2) unpaid overtime compensation, (3) liquidated damages, (4) prejudgment and post-judgment interest; and (5) attorneys' fees and costs.

4. Plaintiffs further allege pursuant to New York Labor Law § 650 et seq. and 12 New York Codes, Rules and Regulations §§ 146 ("NYCRR") and New York Common law that they are entitled to recover from the Defendants: (1) unpaid minimum wage compensation, (2) overtime compensation, (3) unpaid "Spread of Hours" premium, (4) compensation for failure to provide wage notice at the time of hiring and failure to provide paystubs in violation of the NYLL, (5) liquidated damages equal to the sum of unpaid "Spread of Hours" premium, and unpaid minimum as well as overtime compensation pursuant to the NY Wage Theft Prevention Act, (6) prejudgment and post-judgment interest; and (7) attorney's fees and costs.

JURISDICTION AND VENUE

5. This Court has original federal question jurisdiction over this controversy under 29 U.S.C. §216(b), 28 U.S.C. § 1331, and has supplemental jurisdiction over the New York Labor Law claims pursuant to 28 U.S.C. § 1367(a).

6. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. §§ 1391(b) and (c), because Defendants conduct business in this District, and the acts and omissions giving rise to the claims herein alleged took place in this District.

PLAINTIFFS

Plaintiff Chao Ping Li

7. Plaintiff Chao Ping Li is a resident of Queens County, New York and was employed as a kitchen cook by Defendants HLY CHINESE CUISINE INC. d/b/a New HLY Chinese

Cuisine, Hua Yao and Tao Liu, with its principal place of business at 43-23 Main Street, Flushing, NY 11355 from August 8, 2016 to August 30, 2018.

Plaintiff Jian Li

8. Plaintiff Jian Li is a resident of Queens County New York and was employed as a kitchen cook by Defendants HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine, Hua Yao and Tao Liu, with its principal place of business at 43-23 Main Street, Flushing, NY 11355 from October 12, 2017 to August 20, 2018.

CORPORATE DEFENDANT

HLY CHINESE CUISINE INC.

9. Upon information and belief, Corporate Defendant, HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine is a domestic business corporation organization and existing under the laws of the State of New York and maintains its principal place of business at 43-23 Main Street, Flushing, NY 11355.

10. Upon information and belief, at all times relevant hereto HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine is a business or enterprise engaged in interstate commerce employing more than ten (10) employees and earning gross annual sales over Five Hundred Thousand Dollars (\$500,000).

11. Upon information and belief, at all relevant times hereto, HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine have been and continue to be “employers” engaged in interstate “commerce” and/or in the production of “goods” for “commerce”, within the meaning of the Fair Labor Standards Act (“FLSA”), 29 U.S.C § 203.

12. HLY CHINESE CUISINE INC. d/b/a HLY CHINESE CUISINE constitutes an enterprise within the meaning of the FLSA, 29 U.S.C § 203(r).

13. HLY CHINESE CUISINE INC. d/b/a HLY CHINESE CUISINE has been Plaintiffs' employer within the meaning of the New York State Labor Law ("NYLL") § 2, 190, and 651.

INDIVIDUAL DEFENDANT

Defendant Hua Yao

14. Upon information and belief, Defendant Hua Yao is the owner, officer, director and/or managing agent of HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine at 43-23 Main Street, Flushing, NY 11355 and participated in its day-to-day operations, acted intentionally and maliciously, is an employer pursuant to FLSA, 29 U.S.C. §203d, and regulations promulgated thereunder, 29 C.F.R. §791.2, NYLL §2 and the regulations thereunder, and is jointly and severally liable with HLY CHINESE CUISINE INC.

15. Upon information and belief, Defendant Hua Yao owns the stock of HLY CHINESE CUISINE INC. and manages and makes all business decisions including but not limited to the amount in salary the employee will receive and the number of hours employees will work.

Defendant Tao Liu

16. Upon information and belief, Defendant Tao Liu is the owner, officer, director and/or managing agent of HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine at 43-23 Main Street, Flushing, NY 11355 and participated in its day-to-day operations, acted intentionally and maliciously, is an employer pursuant to FLSA, 29 U.S.C. §203d, and regulations promulgated thereunder, 29 C.F.R. §791.2, NYLL §2 and the regulations thereunder, and is jointly and severally liable with HLY CHINESE CUISINE INC.

17. Upon information and belief, Defendant Tao Liu owns the stock of HLY CHINESE CUISINE INC. and manages and makes all business decisions including but not limited to the amount in salary the employee will receive and the number of hours employees will work.

18. At all times relevant herein, HLY CHINESE CUISINE INC. was and continues to be, an “enterprise engaged in commerce” within the meaning of FLSA.

19. At all relevant times, the work performed by Plaintiffs was directly essential to the business operated by HLY CHINESE CUISINE INC.

20. At all relevant times, Defendants knowingly and willfully failed to pay Plaintiffs their lawfully earned overtime compensation and failed to provide them a wage notice at the time of hiring in violation of the NYLL.

21. Plaintiffs have fulfilled all conditions precedent to the institution of this action and/or conditions have been waived.

STATEMENT OF FACTS

22. Defendants committed the following alleged acts knowingly, intentionally and willfully.

23. Defendants knew that the nonpayment of minimum wages, overtime pay, unpaid “Spread of Hours” premium, and failure to provide the required wage notice at the time of hiring would financially injure Plaintiffs and similarly situated employees and violate state and federal laws.

Plaintiff Chao Ping Li

24. From August 8, 2016 to August 30, 2018 Plaintiff Chao Ping Li was hired by Defendants as a cook at Defendants’ restaurant at 43-23 Main Street, Flushing NY 11355.

25. Throughout his employment with the Defendants, the Plaintiff Chao Ping Li worked six (6) days per week with Wednesdays off. The Plaintiff's daily hours were from 11:00am till 11:00pm without any uninterrupted breaks. Therefore, the Plaintiff worked twelve hours (12) per day or seventy (72) hours per week during this period.

26. Plaintiff Chao Ping Li was paid by a fixed monthly rate regardless of how many hours he actually worked.

27. From or around in August 2016 to October 2016, Plaintiff Chao Ping Li was paid \$2,500 per month. From or around in October 2016 to December 2016, Plaintiff Chao Ping Li was paid \$3,200 per month. From or around in January 2017 to December 2017, Plaintiff Chao Ping Li was paid \$3,600 per month. From or around in January 2018 to April 2018, Plaintiff Chao Ping Li was paid \$3,800 per month. From or around in May 2018 to August 2018, Plaintiff Chao Ping Li was paid \$4,000 per month. From December 2017 to June 2018, Plaintiff Chao Ping Li was paid half by cash and half by check bi-weekly.

28. During the rest of his employment with Defendants, Plaintiff Chao Ping Li was paid only by cash.

29. Defendant has not given any compensation to Plaintiff Chao Ping Li from June 24, 2018.

Plaintiff Jian Li

30. From October 12, 2017 to August 20, 2018 Plaintiff Jian Li was hired by Defendants as a cook at Defendants' restaurant at 43-23 Main Street, Flushing NY 11355.

31. Throughout his employment with the Defendants, the Plaintiff Jian Li worked six (6) days per week with Mondays off. The Plaintiff's daily hours were from 11:00am till 11:00pm

without any uninterrupted breaks. Therefore, the Plaintiff worked twelve hours (12) per day or seventy (72) hours per week during this period.

32. Defendants did not make any efforts to keep a time keeping system for employers, including the punch-in/punch out system.

33. Plaintiff Li was paid at a fixed monthly rate throughout his employment with Defendants regardless of hours he actually worked each week. From or around in October 2017 to April 10, 2018, Plaintiff Jian Li was paid \$3,400 per month. From or around on April 11, 2018 to August 20, 2018, Plaintiff Jian Li was paid \$3,600 per month.

34. During the employment period, Plaintiff Jian Li was paid partially by cash and partially by check bi-weekly.

35. Defendants owed Plaintiff Jian Li \$3,157 in cash payment as of the date of filing this complaint.

36. During the employment, Plaintiffs Jian Li and Chao Ping Li could not get paid until he signed on the false time record sheet provided by Defendants.

37. Defendants did not compensate Plaintiffs minimum and overtime compensation according to state and federal laws.

38. Plaintiffs were not compensated for New York State's "spread of hours" premium for shifts that lasted longer than ten (10) hours, one day each week.

39. Defendants did not provide Plaintiffs with a wage notices at the time of his hiring.

40. Defendants committed the following alleged acts knowingly, intentionally and willfully.

41. Defendants knew that the nonpayment of minimum, overtime and the “spread of hours” premium would economically injure Plaintiffs and the Collective Members by their violation of federal and state laws.

42. Defendants did not pay Plaintiffs and other Collective Action members’ New York’s “spread of hours” premium for every day in which they worked over ten (10) hours.

43. While employed by Defendants, Plaintiffs were not exempt under federal and state laws requiring employers to pay employees overtime.

44. Defendants failed to keep full and accurate records of Plaintiffs’ hours and wages.

45. Defendants did not provide Plaintiffs and other Collective Action Members with written notices about the terms and conditions of their employment upon hire in relation to their rate of pay, regular pay cycle and rate of minimum and overtime pay. These notices were similarly not provided upon Plaintiffs and other Collective Members’ pay increase(s).

COLLECTIVE ACTION ALLEGATIONS

46. Defendants knowingly and willfully operated their business with a policy of not paying Plaintiffs and other similarly situated employees either the FLSA overtime rate (of time and one-half), or the New York State overtime rate (of time and one-half), in violation of the FLSA and New York Labor Law and the supporting federal and New York State Department of Labor Regulations.

47. Defendants knowingly and willfully operated their business with a policy of not paying the New York State unpaid “Spread of Hours” premium to Plaintiffs and other similarly situated employees.

48. Plaintiffs bring this action individually and on behalf of all other and former non-exempt employees who have been or were employed by the Defendants at each of their four

finishing locations for up to the last three (3) years, through entry of judgment in this case (the “Collective Action Period”) and whom failed to receive minimum wages, spread-of-hours pay, and/or overtime compensation for all hours worked in excess of forty (40) hours per week (the “Collective Action Members”), and have been subject to the same common decision, policy, and plan to not provide required wage notices at the time of hiring, in contravention to federal and state labor laws.

49. Upon information and belief, the Collection Action Members are so numerous the joinder of all members is impracticable. The identity and precise number of such persons are unknown, and the facts upon which the calculations of that number may be ascertained are presently within the sole control of the Defendants. Upon information and belief, there are more than ten (10) Collective Action Members, who have worked for or have continued to work for the Defendants during the Collective Action Period, most of whom would not likely file individual suits because they fear retaliation, lack adequate financial resources, access to attorneys, or knowledge of their claims. Therefore, Plaintiffs submit that this case should be certified as a collection action under the FLSA, 29 U.S.C. §216(b).

50. Plaintiffs will fairly and adequately protect the interests of the Collective Action Members, and have retained counsel that is experienced and competent in the field of employment law and class action litigation. Plaintiffs have no interests that are contrary to or in conflict with those members of this collective action.

51. This action should be certified as collective action because the prosecution of separate action by individual members of the collective action would risk creating either inconsistent or varying adjudication with respect to individual members of this collective that

would as a practical matter be dispositive of the interest of the other members not party to the adjudication, or subsequently impair or impede their ability to protect their interests.

52. A collective action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. Furthermore, inasmuch as the damages suffered by individual Collective Action Members may be relatively small, the expense and burden of individual litigation makes it virtually impossible for the members of the collective action to individually seek redress for the wrongs done to them. There will be no difficulty in the management of this action as collective action.

53. Questions of law and fact common to members of the collective action predominate over questions that may affect only individual members because Defendants have acted on grounds generally applicable to all members. Among the questions of fact common to Plaintiff and other Collective Action Members are:

- a. Whether the Defendants employed Collective Action members within the meaning of the FLSA;
- b. Whether the Defendants failed to pay the Collective Action Members applicable minimum wages and to pay overtime wages for all hours worked above forty (40) each workweek in violation of the FLSA and the regulation promulgated thereunder;
- c. Whether the Defendants failed to pay the Collective Action Members spread-of-hours payment for each day an employee worked over 10 hours;
- d. Whether the Defendants failed to provide the Collective Action Members with a wage notice at the time of hiring as required by the NYLL;
- e. Whether the Defendants' violations of the FLSA are willful as that term is used within the context of the FLSA; and,

f. Whether the Defendants are liable for all damages claimed hereunder, including but not limited to compensatory, punitive, and statutory damages, interest, costs and disbursements and attorneys' fees.

54. Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a collective action.

55. Plaintiffs and others similarly situated have been substantially damaged by Defendants' unlawful conduct.

STATEMENT OF CLAIM

COUNT I

[Violations of the Fair Labor Standards Act—Minimum Wage Brought on behalf of the Plaintiffs and the FLSA Collective]

1. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.
2. At all relevant times, upon information and belief, Defendants have been, and continue to be, “employers” engaged in interstate “commerce” and/or in the production of “goods” for “commerce,” within the meaning of the FLSA, 29 U.S.C. §§206(a) and §§207(a). Further, Plaintiff is covered within the meaning of FLSA, U.S.C. §§206(a) and 207(a).
3. At all relevant times, Defendants employed “employees” including Plaintiffs, within the meaning of FLSA.
4. Upon information and belief, at all relevant times, Defendants have had gross revenues in excess of \$500,000.

5. The FLSA provides that any employer engaged in commerce shall pay employees the applicable minimum wage. 29 U.S.C. § 206(a).
6. At all relevant times, Defendants had a policy and practice of refusing to pay the statutory minimum wage to Plaintiff, and the collective action members, for some or all of the hours they worked.
7. The FLSA provides that any employer who violates the provisions of 29 U.S.C. §206 shall be liable to the employees affected in the amount of their unpaid minimum compensation, and in an additional equal amount as liquidated damages.
8. Defendants knowingly and willfully disregarded the provisions of the FLSA as evidenced by failing to compensate Plaintiffs and Collective Class Members at the statutory minimum wage when they knew or should have known such was due and that failing to do so would financially injure Plaintiff and Collective Action members.

COUNT II
[Violation of New York Labor Law—Minimum Wage]

9. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.
10. At all relevant times, plaintiffs were employed by Defendants within the meaning of New York Labor Law §§2 and 651.
11. Pursuant to the New York Wage Theft Prevention Act, an employer who fails to pay the minimum wage shall be liable, in addition to the amount of any underpayments, for liquidated damages equal to the total of such under-payments found to be due the employee.
12. Defendants knowingly and willfully violated Plaintiffs' and Class Members' rights by failing to pay them minimum wages in the lawful amount for hours worked.

COUNT III
[Violations of the Fair Labor Standards Act—Overtime Wage
Brought on behalf of the Plaintiff and the FLSA Collective]

56. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.

57. The FLSA provides that no employer engaged in commerce shall employ a covered employee for a work week longer than forty (40) hours unless such employee receives compensation for employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he or she is employed, or one and one-half times the minimum wage, whichever is greater. 29 USC §207(a).

58. The FLSA provides that any employer who violates the provisions of 29 U.S.C. §207 shall be liable to the employees affected in the amount of their unpaid overtime compensation, and in an additional equal amount as liquidated damages. 29 USC §216(b).

59. Defendants' failure to pay Plaintiffs and the FLSA Collective their overtime pay violated the FLSA.

60. At all relevant times, Defendants had, and continue to have, a policy of practice of refusing to pay overtime compensation at the statutory rate of time and a half to Plaintiffs and Collective Action Members for all hours worked in excess of forty (40) hours per workweek, which violated and continues to violate the FLSA, 29 U.S.C. §§201, et seq., including 29 U.S.C. §§207(a) (1) and 215(a).

61. The FLSA and supporting regulations required employers to notify employees of employment law requires employers to notify employment law requirements. 29 C.F.R. §516.4.

62. Defendants willfully failed to notify Plaintiffs and FLSA Collective of the requirements of the employment laws in order to facilitate their exploitation of Plaintiffs' and FLSA Collectives' labor.

63. Defendants knowingly and willfully disregarded the provisions of the FLSA as evidenced by their failure to compensate Plaintiffs and Collective Members the statutory overtime rate of time and one half for all hours worked in excess of forty (40) per week when they knew or should have known such was due and that failing to do so would financially injure Plaintiffs and Collective Action Members.

COUNT IV
[Violation of New York Labor Law—Overtime Pay]

64. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.

65. Pursuant to the New York Wage Theft Prevention Act, an employer who fails to pay proper overtime compensation shall be liable, in addition to the amount of any underpayments, for liquidated damages equal to the total of such under-payments found to be due the employee.

66. Defendants' failure to pay Plaintiffs and the FLSA Collective their overtime pay violated the NYLL.

67. Defendants' failure to pay Plaintiffs and the FLSA Collective was not in good faith.

COUNT V
[Violation of New York Labor Law—Spread of Hour Pay]

68. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.

69. The NYLL requires employers to pay an extra hour's pay for every day that an employee works an interval in excess of ten hours pursuant to NYLL §§190, et seq., and §§650, et seq., and New York State Department of Labor regulations §146-1.6.

70. Defendants' failure to pay Plaintiffs and FLSA Collective spread-of-hours pay was not in good faith.

COUNT VI
[Violation of New York Labor Law—Time of Hire Wage Notice Requirement]

71. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.

72. The Defendants failed to furnish to the Plaintiffs at the time of hiring a notice containing the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; the telephone number of the employer, and anything otherwise required by law; in violation of the NYLL, § 195(1).

73. Due to the defendants' violation of the NYLL, § 195(1) each Plaintiffs is entitled to recover from Defendants, jointly and severally, \$50 for each workday that the violation occurred or continued to occur, up to \$5,000, together with costs and attorneys' fees pursuant to New York Labor Law. N.Y. Lab. Law §198(1-b).

COUNT VII
[Violation of New York Labor Law—New York Pay Stub Requirement]

74. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though

fully set forth herein.

75. The NYLL and supporting regulations require employers to provide detailed paystub information to employees every payday. NYLL §195-1(d).

76. Defendants have failed to make a good faith effort to comply with the New York Labor Law with respect to compensation of each Plaintiffs, and did not provide the pay stub on or after each Plaintiffs' payday.

77. Due to Defendants' violations of New York Labor Law, Plaintiffs is entitled to recover from Defendants, jointly and severally, \$250 for each workday of the violation, up to \$5,000 for Plaintiffs for costs and attorneys' fees pursuant to New York Labor Law N.Y. Lab. Law §198(1-d).

Prayer for Relief

WHEREFORE, Plaintiffs, on behalf of himself and the FLSA collective members, respectfully requests that this court enter a judgment providing the following relief:

a) Authorizing Plaintiffs at the earliest possible time to give notice of this collective action, or that the court issue such notice, to all persons who are presently, or have been employed by defendants as non-exempt tipped or non-tipped employees. Such notice shall inform them that the civil notice has been filed, of the nature of the action, of their right to join this lawsuit if they believe they were denied proper hourly compensation and overtime wages;

b) Certification of this case as a collective action pursuant to FLSA;

c) Issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA opt-in class, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims and state claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b), and appointing Plaintiffs and their counsel to represent the

Collective Action Members;

d) A declaratory judgment that the practices complained of herein are unlawful under FLSA and New York Labor Law;

e) An injunction against HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine, its officers, agents, successors, employees, representatives and any and all persons acting in concert with them as provided by law, from engaging in each of unlawful practices and policies set forth herein;

f) An award of unpaid minimum and overtime wages due under FLSA and New York Labor Law, plus compensatory and liquidated damages in the amount of twenty five percent under NYLL §§190 et seq., §§650 et seq., and one hundred percent after May 1, 2011 under NY Wage Theft Prevention Act, and interest;

g) An award of unpaid “spread of hours” premium due under the New York Labor Law;

h) An award of damages for Defendants’ failure to provide wage notice at the time of hiring as required under the New York Labor Law.

i) An award of liquidated and/or punitive damages as a result of Defendants’ knowing and willful failure to pay minimum and overtime compensation pursuant to 29 U.S.C. §216;

j) An award of liquidated and/or punitive damages as a result of Defendants’ willful failure to pay minimum and overtime wages, “spread of hours” premium, and overtime compensation pursuant to New York Labor Law;

k) An award of costs and expenses of this action together with reasonable attorneys’ and expert fees pursuant to 29 U.S.C. §216(b) and NYLL §§198 and 663;

l) The cost and disbursements of this action;

- m) An award of prejudgment and post-judgment fees;
- n) Providing that if any amounts remain unpaid upon the expiration of ninety days following the issuance of judgment, or ninety days after expiration of the time to appeal and no appeal is then pending, whichever is later, the total amount of judgment shall automatically increase by fifteen percent, as required by NYLL §198(4); and
- o) Such other and further legal and equitable relief as this Court deems necessary, just, and proper.

Dated: Flushing, New York
September 9, 2018

HANG & ASSOCIATES, PLLC

By: /s/ Rui Ma
Rui Ma, Esq.
136-20 38th Ave., Suite #10G
Flushing, New York 11354
Telephone: (718) 353-8588
Email: rma@hanglaw.com
Attorneys for Plaintiffs

EXHIBIT 1

**CONSENT TO SUE UNDER
FEDERAL FAIR LABOR STANDARDS ACT**

I am an employee currently or formerly employed by HYL Chinese Cuisine Inc., Hua Yao, Tao Liu and/or related entities. I consent to be a plaintiff in an action to collect unpaid wages. I agree that I am bound by the terms of the Contingent Fee Retainer signed by the named plaintiff in this case.

Chaoping Li
Full Legal Name (Print)

Chaoping Li
Signature

9/1/2018
Date

**CONSENT TO SUE UNDER
FEDERAL FAIR LABOR STANDARDS ACT**

I am an employee currently or formerly employed by HYL Chinese Cuisine Inc., Hua Yao, Tao Liu and/or related entities. I consent to be a plaintiff in an action to collect unpaid wages. I agree that I am bound by the terms of the Contingent Fee Retainer signed by the named plaintiff in this case.

Jian Li
Full Legal Name (Print)

Jian Li
Signature

09/04/2018
Date

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

CHAO PING LI and JIAN LI, individually and on behalf of all other employees similarly situated

(b) County of Residence of First Listed Plaintiff Queens (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Rui Ma, Esq., Hang & Associates, PLLC 136-20 38th Ave., Suite 10G, Flushing, New York 11354 Tel: 718-353-8588

DEFENDANTS

HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine, HUA YAO, and TAO LIU

County of Residence of First Listed Defendant Queens (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: 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.

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

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES.

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): 29 U.S.C. § 201 et seq.

Brief description of cause: Unpaid minimum and overtime wages

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 DOCKET NUMBER

DATE 09/07/2018 SIGNATURE OF ATTORNEY OF RECORD /s Rui Ma

FOR OFFICE USE ONLY

RECEIPT # AMOUNT 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.

Case is Eligible for Arbitration

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? Yes 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 No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: _____

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? Yes No

(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

I certify the accuracy of all information provided above.

Signature: _____

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHAO PING LI and JIAN LI, individually and on behalf of all other employees similarly situated,

Plaintiff(s)

v.

HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine, HUA YAO, and TAO LIU

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) HLY CHINESE CUISINE INC. d/b/a New HLY Chinese Cuisine 42-23 Main Street, Flushing, NY 11355 Hua Yao 147-24 45th Ave., Flushing, NY 11355 Tao Liu 58-32 202nd Street, Flushing, NY 11364

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Rui Ma, Esq. 136-20 38th Ave., Suite 10G Flushing, New York 11354 Telephone: (718) 353-8588 Email: rma@hanglaw.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Unpaid Overtime Suit Filed Against New HLY Chinese Cuisine](#)
