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

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BEATRIZ SAAVEDRA, ERIKA ALFARO,
and JASBLEIDY MONTEJO, *individually and
on behalf of others similarly situated,*

Plaintiffs,

COMPLAINT

-against-

**COLLECTIVE ACTION UNDER
29 U.S.C. § 216(b)**

THE TWIN KITTY BAKERY CORP. (D/B/A
LA GATA GOLOSA), TWO BROTHERS
BAKERY CORP. (D/B/A LA GATA
GOLOSA), SWEET KISS CORP. (D/B/A LA
GATA GOLOSA), 8263 BAKERY CORP.
(D/B/A LA GATA GOLOSA), JOHN
CASTRO, JOSE CASTRO, WENDY A
CASTRO, and MAX CASTRO,

ECF Case

Defendants.

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Plaintiffs Beatriz Saavedra, Erika Alfaro, and Jasbleidy Montejo, individually and on behalf of others similarly situated (collectively, “Plaintiffs”), by and through their attorneys, Michael Faillace & Associates, P.C., upon their knowledge and belief, and as against The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa), Two Brothers Bakery Corp. (d/b/a La Gata Golosa), Sweet Kiss Corp. (d/b/a La Gata Golosa), 8263 Bakery Corp. (d/b/a La Gata Golosa), (“Defendant Corporations”), John Castro, Jose Castro, Wendy A Castro, and Max Castro, (“Individual Defendants”), (collectively, “Defendants”), allege as follows:

NATURE OF ACTION

1. Plaintiffs are former employees of Defendants The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa), Two Brothers Bakery Corp. (d/b/a La Gata Golosa), Sweet Kiss Corp. (d/b/a La Gata Golosa), 8263 Bakery Corp. (d/b/a La Gata Golosa), John Castro, Jose Castro, Wendy A Castro, and Max Castro.

2. Defendants own, operate, or control three Colombian restaurants and bakeries, located at 82-63 Broadway, Elmhurst, New York 11373 (hereinafter the “Elmhurst location”), at 89-01 37th Avenue, Jackson Heights, New York, 11372 (hereinafter “the 37th Street location”) and at 81-20 Roosevelt Avenue, Jackson Heights, New York 11372 (hereinafter “the Roosevelt Avenue location”) under the name “La Gata Golosa.”

3. Upon information and belief, Individual Defendants John Castro, Jose Castro, Wendy A Castro, and Max Castro, serve or served as owners, managers, principals, or agents of Defendant Corporations and, through these corporate entities, operate or operated the restaurants as a joint or unified enterprise.

4. Plaintiffs were employees of Defendants.

5. Plaintiffs were employed as waitresses and cashiers at the three La Gata Golosa locations.

6. Plaintiffs were ostensibly employed as waitresses. However, they were required to spend a considerable part of their work day performing non-tipped duties, including but not limited to cleaning the restaurants, tables, windows and bathrooms, cooking, preparing food, stocking and organizing merchandise in the store, bringing supplies from the basement to the main floor, mopping, sweeping, taking out trash, preparing coffee (hereafter the “non-tipped duties”).

7. At all times relevant to this Complaint, Plaintiffs worked for Defendants in excess of 40 hours per week, without appropriate minimum wage and overtime compensation for the hours that they worked.

8. Rather, Defendants failed to maintain accurate recordkeeping of the hours worked, failed to pay Plaintiffs appropriately for any hours worked, either at the straight rate of pay or for any additional overtime premium.

9. Defendants employed and accounted for Plaintiffs as waitresses in their payroll, but in actuality their duties required a significant amount of time spent performing the non-tipped duties alleged above.

10. However, under both the FLSA and NYLL, Defendants were not entitled to take a tip credit because Plaintiffs' non-tipped duties exceeded 20% of each workday, or 2 hours per day, whichever is less in each day. 12 N.Y. C.R.R. §146.

11. Upon information and belief, Defendants employed the policy and practice of disguising Plaintiffs' actual duties in payroll records by designating them as waitresses instead of non-tipped employees. This allowed Defendants to avoid paying Plaintiffs at the minimum wage rate and enabled them to pay them above the tip-credit rate, but below the minimum wage.

12. Defendants' conduct extended beyond Plaintiffs to all other similarly situated employees.

13. At all times relevant to this Complaint, Defendants maintained a policy and practice of requiring Plaintiffs and other employees to work in excess of forty (40) hours per week without providing the minimum wage and overtime compensation required by federal and state law and regulations.

14. Plaintiffs now bring this action on behalf of themselves, and other similarly situated individuals, for unpaid minimum and overtime wages pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* (“FLSA”), and for violations of the N.Y. Labor Law §§ 190 *et seq.* and 650 *et seq.* (the “NYLL”), including applicable liquidated damages, interest, attorneys’ fees and costs.

15. Plaintiffs seek certification of this action as a collective action on behalf of themselves, individually, and all other similarly situated employees and former employees of Defendants pursuant to 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

16. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the FLSA, and supplemental jurisdiction over Plaintiffs’ state law claims under 28 U.S.C. § 1367(a).

17. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) because all, or a substantial portion of, the events or omissions giving rise to the claims occurred in this district, Defendants maintain their corporate headquarters and offices within this district, and Defendants operate three Colombian restaurants and bakeries located in this district. Further, Plaintiffs were employed by Defendants in this district.

PARTIES

Plaintiffs

18. Plaintiff Beatriz Saavedra (“Plaintiff Saavedra” or “Ms. Saavedra”) is an adult individual residing in Queens County, New York. Plaintiff Saavedra was employed by Defendants at the 37th Street and Roosevelt Avenue locations from approximately May 2012 until on or about September 13, 2017.

19. Plaintiff Erika Alfaro (“Plaintiff Alfaro” or “Ms. Alfaro”) is an adult individual residing in Queens County, New York. Plaintiff Alfaro was employed by Defendants at the 37th Street location from approximately February 2013 until on or about September 2017.

20. Plaintiff Jasbleidy Montejo (“Plaintiff Montejo” or “Ms. Montejo”) is an adult individual residing in Queens County, New York. Plaintiff Montejo was employed by Defendants at the 37th Street and the Elmhurst locations from approximately June 2013 until on or about September 13, 2017.

Defendants

21. At all relevant times, Defendants own, operate, or control three Colombian restaurants and bakeries, located at 82-63 Broadway, Elmhurst, New York 11373, 89-01 37 Avenue, Jackson Heights, New York, 11372 and 81-20 Roosevelt Avenue, Jackson Heights, New York 11372, all under the name “La Gata Golosa.”

22. Upon information and belief, The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 82-63 Broadway, Elmhurst, New York 11373.

23. Upon information and belief, Two Brothers Bakery Corp. (d/b/a La Gata Golosa) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 89-01 37 Avenue, Jackson Heights, New York 11372.

24. Upon information and belief, Sweet Kiss Corp. (d/b/a La Gata Golosa) is a domestic corporation organized and existing under the laws of the State of New York. Upon information

and belief, it maintains its principal place of business at 81-20 Roosevelt Avenue, Jackson Heights, New York 11372.

25. Upon information and belief, 8263 Bakery Corp. (d/b/a La Gata Golosa) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 82-63 Broadway, Elmhurst, New York 11373.

26. Defendant John Castro is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant John Castro is sued individually in his capacity as owner, officer and/or agent of Defendant Corporations. Defendant John Castro possesses operational control over Defendant Corporations, an ownership interest in Defendant Corporations, and controls significant functions of Defendant Corporations. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

27. Defendant Jose Castro is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant Jose Castro is sued individually in his capacity as owner, officer and/or agent of Defendant Corporations. Defendant Jose Castro possesses operational control over Defendant Corporations, an ownership interest in Defendant Corporations, and controls significant functions of Defendant Corporations. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

28. Defendant Wendy A Castro is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant Wendy A Castro is sued individually in her capacity as owner, officer and/or agent of Defendant Corporations. Defendant Wendy A Castro possesses operational control over Defendant Corporations, an ownership interest in Defendant Corporations, and controls significant functions of Defendant Corporations. She determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

29. Defendant Max Castro is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant Max Castro is sued individually in his capacity as owner, officer and/or agent of Defendant Corporations. Defendant Max Castro possesses operational control over Defendant Corporations, an ownership interest in Defendant Corporations, and controls significant functions of Defendant Corporations. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

FACTUAL ALLEGATIONS

Defendants Constitute Joint Employers

30. Defendants operate three Colombian restaurants and bakeries located in the Elmhurst and Jackson Heights sections of Queens in New York City.

31. Individual Defendants, John Castro, Jose Castro, Wendy A Castro, and Max Castro, possess operational control over Defendant Corporations, possess ownership interests in Defendant Corporations, and control significant functions of Defendant Corporations.

32. Defendants are associated and joint employers, act in the interest of each other with respect to employees, pay employees by the same method, and share control over the employees.

33. Each Defendant possessed substantial control over Plaintiffs' (and other similarly situated employees') working conditions, and over the policies and practices with respect to the employment and compensation of Plaintiffs, and all similarly situated individuals, referred to herein.

34. Defendants jointly employed Plaintiffs (and all similarly situated employees) and are Plaintiffs' (and all similarly situated employees') employers within the meaning of 29 U.S.C. 201 *et seq.* and the NYLL.

35. In the alternative, Defendants constitute a single employer of Plaintiffs and/or similarly situated individuals.

36. Upon information and belief, Individual Defendants John Castro, Jose Castro, Wendy A Castro, and Max Castro operate Defendant Corporations as either alter egos of themselves and/or fail to operate Defendant Corporations as entities legally separate and apart from themselves, by among other things:

- a) failing to adhere to the corporate formalities necessary to operate Defendant Corporations as Corporations,
- b) defectively forming or maintaining the corporate entities of Defendant Corporations, by, amongst other things, failing to hold annual meetings or maintaining appropriate corporate records,
- c) transferring assets and debts freely as between all Defendants,
- d) operating Defendant Corporations for their own benefit as the sole or majority shareholders,

- e) operating Defendant Corporations for their own benefit and maintaining control over these corporations as closed Corporations,
- f) intermingling assets and debts of their own with Defendant Corporations,
- g) diminishing and/or transferring assets of Defendant Corporations to avoid full liability as necessary to protect their own interests, and
- h) Other actions evincing a failure to adhere to the corporate form.

37. At all relevant times, Defendants were Plaintiffs' employers within the meaning of the FLSA and New York Labor Law. Defendants had the power to hire and fire Plaintiffs, controlled the terms and conditions of employment, and determined the rate and method of any compensation in exchange for Plaintiffs' services.

38. In each year from 2012 to 2017, Defendants, both separately and jointly, had a gross annual volume of sales of not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated).

39. In addition, upon information and belief, Defendants and/or their enterprise were directly engaged in interstate commerce. As an example, numerous items that were used in the restaurants/bakeries on a daily basis are goods produced outside of the State of New York.

Individual Plaintiffs

40. Plaintiffs are former employees of Defendants who were employed as waitresses and cashiers. However, the tipped workers spent over 20% of each shift performing the non-tipped duties described above.

41. Plaintiffs seek to represent a class of similarly situated individuals under 29 U.S.C. 216(b).

Plaintiff Beatriz Saavedra

42. Plaintiff Saavedra was employed by Defendants from approximately May 2012 until on or about September 13, 2017 at the 37th Street location and at the Roosevelt Avenue location on two or three occasions.

43. Defendants ostensibly employed Plaintiff Saavedra as a waitress and a cashier.

44. However, Plaintiff Saavedra was also required to spend a significant portion of her work day performing the non-tipped duties described above.

45. Although Plaintiff Saavedra ostensibly was employed as a waitress and a cashier, she spent over 20% of each day performing non-tipped work throughout her employment with Defendants.

46. Plaintiff Saavedra regularly handled goods in interstate commerce, such as food and other supplies produced outside the State of New York.

47. Plaintiff Saavedra's work duties required neither discretion nor independent judgment.

48. Throughout her employment with Defendants, Plaintiff Saavedra regularly worked in excess of 40 hours per week.

49. From approximately May 2012 until on or about December 2012, Plaintiff Saavedra worked at the 37th street location from approximately 7:00 a.m. until on or about 3:00 p.m., 3 or 4 days a week and from approximately 3:00 p.m. until on or about 11:00 p.m., 3 days per week (typically 48 to 56 hours per week).

50. From approximately March 2013 until on or about January 2014, Plaintiff Saavedra worked at the 37th street location from approximately 7:00 a.m. until on or about 3:00 p.m. or from approximately 3:00 p.m. until on or about 11:00 p.m., 6 days a week (typically 48 hours per week).

51. From approximately January 2014 until on or about September 13, 2017, Plaintiff Saavedra worked at the 37th street location from approximately 7:00 a.m. until on or about 3:00 p.m., 5 or 6 days a week (typically 40 to 48 hours per week).

52. Throughout her employment, Defendants paid Plaintiff Saavedra her wages in cash.

53. From approximately May 2012 until on or about December 2012, Defendants paid Plaintiff Saavedra a fixed salary of \$48 per shift.

54. From approximately March 2013 until on or about January 2014, Defendants paid Plaintiff Saavedra a fixed salary of \$52 per shift.

55. From approximately January 2014 until on or about January 2017, Defendants paid Plaintiff Saavedra a fixed salary of \$60 per shift.

56. From approximately January 2017 until on or about May 2017, Defendants paid Plaintiff Saavedra a fixed salary of \$70 per shift.

57. From approximately May 2017 until on or about September 2017, Defendants paid Plaintiff Saavedra a fixed salary of \$60 per shift.

58. Plaintiff Saavedra's pay did not vary even when she was required to stay later or work a longer day than her usual schedule.

59. For example, Defendants required Plaintiff Saavedra to work an additional 30 minutes to 1 hour past her scheduled departure time regularly, and did not pay her for the additional time she worked.

60. Defendants never granted Plaintiff Saavedra any breaks or meal periods of any kind.

61. Plaintiff Saavedra was never notified by Defendants that her tips were being included as an offset for wages.

62. Defendants did not account for these tips in any daily or weekly accounting of Plaintiff Saavedra's wages.

63. Plaintiff Saavedra was not required to keep track of her time, nor to her knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected her actual hours worked.

64. Defendants required Plaintiff Saavedra to sign a document, the contents of which she was not allowed to review in detail, in order to release her weekly pay.

65. Defendants took improper and illegal deductions of Plaintiff Saavedra's wages to cover overhead expenses, such as for customer walkouts or the cost of meals returned to the kitchen by customers.

66. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Saavedra regarding overtime and wages under the FLSA and NYLL.

67. Defendants did not provide Plaintiff Saavedra an accurate statement of wages, as required by NYLL 195(3).

68. Defendants did not give any notice to Plaintiff Saavedra, in English and in Spanish (Plaintiff Saavedra's primary language), of her rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

69. Defendants required Plaintiff Saavedra to purchase "tools of the trade" with her own funds—including twenty-five shirts per year.

Plaintiff Erika Alfaro

70. Plaintiff Alfaro was employed by Defendants from approximately February 2013 until on or about September 2017 at the 37th Street location.

71. Defendants ostensibly employed Plaintiff Alfaro as a waitress.

72. However, Plaintiff Alfaro was also required to spend a significant portion of her work day performing the non-tipped duties described above.

73. Although Plaintiff Alfaro ostensibly was employed as a waitress, she spent over 20% of each day performing non-tipped work throughout her employment with Defendants.

74. Plaintiff Alfaro regularly handled goods in interstate commerce, such as food and other supplies produced outside the State of New York.

75. Plaintiff Alfaro's work duties required neither discretion nor independent judgment.

76. From approximately February 2013 one shift per day until on or about January 2016, Plaintiff Alfaro worked at the 37th Street location from approximately 7:00 a.m. or 3:00 p.m. or 11:00 p.m. until on or about 3:00 p.m. or 11:00 p.m. or 7:00 a.m., 5 days a week (typically 40 hours per week).

77. From approximately January 2016 one shift per day until on or about October 2016, Plaintiff Alfaro worked at the 37th Street location from approximately 7:00 a.m. or 3:00 p.m. or 11:00 p.m. until on or about 3:00 p.m. or 11:00 p.m. or 7:00 a.m., 4 days a week (typically 32 hours per week).

78. From approximately October 2016 one shift per day until on or about September 2017, Plaintiff Alfaro worked at the 37th Street location from approximately 7:00 a.m. or 3:00 p.m. or 11:00 p.m. until on or about 3:00 p.m. or 11:00 p.m. or 7:00 a.m., 4 to 5 days per week (typically 32 to 40 hours per week).

79. Throughout her employment, Defendants paid Plaintiff Alfaro her wages in cash.

80. From approximately February 2013 until on or about March 2014, Defendants paid Plaintiff Alfaro a fixed salary of \$42 per shift.

81. From approximately March 2014 until on or about March 2015, Defendants paid Plaintiff Alfaro a fixed salary of \$46 per shift.

82. From approximately March 2015 until on or about March 2016, Defendants paid Plaintiff Alfaro a fixed salary of \$52 per shift.

83. From approximately March 2016 until on or about September 2017, Defendants paid Plaintiff Alfaro a fixed salary of \$60 per shift.

84. Plaintiff Alfaro's pay did not vary even when she was required to stay later or work a longer day than her usual schedule.

85. For example, Defendants required Plaintiff Alfaro to work an additional 30 minutes to 1 hour past her scheduled departure time regularly, and did not pay her for the additional time she worked.

86. Defendants never granted Plaintiff Alfaro any breaks or meal periods of any kind.

87. Plaintiff Alfaro was never notified by Defendants that her tips were being included as an offset for wages.

88. Defendants did not account for these tips in any daily or weekly accounting of Plaintiff Alfaro's wages.

89. Plaintiff Alfaro was not required to keep track of her time, nor to her knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected her actual hours worked.

90. Defendants required Plaintiff Alfaro to sign a document, the contents of which she was not allowed to review in detail, in order to release her weekly pay.

91. Defendants took improper and illegal deductions of Plaintiff Alfaro's wages to cover overhead expenses, such as for customer walkouts or the cost of meals returned to the kitchen by customers.

92. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Alfaro regarding overtime and wages under the FLSA and NYLL.

93. Defendants did not provide Plaintiff Alfaro an accurate statement of wages, as required by NYLL 195(3).

94. Defendants did not give any notice to Plaintiff Alfaro, in English and in Spanish (Plaintiff Alfaro's primary language), of her rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

95. Defendants required Plaintiff Alfaro to purchase "tools of the trade" with her own funds—including fifteen work shirts.

Plaintiff Jasbleidy Montejo

96. Plaintiff Montejo was employed by Defendants from approximately June 2013 until on or about September 13, 2017 at both the 37th Street and Elmhurst locations.

97. Defendants ostensibly employed Plaintiff Montejo as a waitress.

98. However, Plaintiff Montejo was also required to spend a significant portion of her work day performing the non-tipped duties described above.

99. Although Plaintiff Montejo ostensibly was employed as a waitress, she spent over 20% of each day performing non-tipped work throughout her employment with Defendants.

100. Plaintiff Montejo regularly handled goods in interstate commerce, such as food and other supplies produced outside the State of New York.

101. Plaintiff Montejo's work duties required neither discretion nor independent judgment.

102. Throughout her employment with Defendants, Plaintiff Montejo regularly worked in excess of 40 hours per week.

103. From approximately June 2013 until on or about August 2013, Plaintiff Montejo worked at the 37th Street location from approximately 3:00 p.m. until on or about 11:00 p.m. or 12:00 a.m., 7 days a week (typically 56 to 63 hours per week).

104. From approximately September 2013 until on or about June 2014, Plaintiff Montejo worked at the Elmhurst location from approximately 3:00 p.m. until on or about 12:00 a.m., 6 days a week (typically 54 hours per week).

105. From approximately July 2014 until on or about December 2015, Plaintiff Montejo worked at the Elmhurst location from approximately 3:00 p.m. until on or about 12:00 a.m., 5 days a week (typically 45 hours per week).

106. From approximately January 2016 until on or about May 2017, Plaintiff Montejo worked at both the Elmhurst and 37th Street locations from approximately 3:00 p.m. until on or about 12:00 a.m., 4 days a week (typically 36 hours per week).

107. From approximately May 2017 until on or about September 13, 2017, Plaintiff Montejo worked at both the Elmhurst and 37th Street locations from approximately 3:00 p.m. until on or about 12:00 a.m., 2 o 3 day a week (typically 18 to 27 hours per week).

108. Throughout her employment, Defendants paid Plaintiff Montejo her wages in cash.

109. From approximately June 2013 until on or about August 2013, Defendants paid Plaintiff Montejo a fixed salary of \$52 per shift.

110. From approximately January 2014 until on or about January 2017, Defendants paid Plaintiff Montejo a fixed salary of \$60 per shift.

111. From approximately January 2017 until on or about May 2017, Defendants paid Plaintiff Montejo a fixed salary of \$70 per shift.

112. From approximately May 2017 until on or about September 13, 2017, Defendants paid Plaintiff Montejo a fixed salary of \$60 per shift.

113. Plaintiff Montejo's pay did not vary even when she was required to stay later or work a longer day than her usual schedule.

114. For example, Defendants required Plaintiff Montejo to work an additional 30 minutes to 1 hour past her scheduled departure time regularly, and did not pay her for the additional time she worked.

115. Defendants never granted Plaintiff Montejo any breaks or meal periods of any kind.

116. Plaintiff Montejo was never notified by Defendants that her tips were being included as an offset for wages.

117. Defendants did not account for these tips in any daily or weekly accounting of Plaintiff Montejo's wages.

118. Plaintiff Montejo was not required to keep track of her time, nor to her knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected her actual hours worked.

119. Defendants required Plaintiff Montejo to sign a document, the contents of which she was not allowed to review in detail, in order to release her weekly pay.

120. Defendants took improper and illegal deductions of Plaintiff Montejo's wages to cover overhead expenses, such as for customer walkouts or the cost of meals returned to the kitchen by customers.

121. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Montejo regarding overtime and wages under the FLSA and NYLL.

122. Defendants did not provide Plaintiff Montejo an accurate statement of wages, as required by NYLL 195(3).

123. Defendants did not give any notice to Plaintiff Montejo, in English and in Spanish (Plaintiff Montejo's primary language), of her rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

124. Defendants required Plaintiff Montejo to purchase "tools of the trade" with her own funds—including twenty-five work shirts and two pants per year.

Defendants' General Employment Practices

125. At all times relevant to this Complaint, Defendants maintained a policy and practice of requiring Plaintiffs (and all similarly situated employees) to work in excess of 40 hours a week without paying them appropriate minimum wage and overtime compensation as required by federal and state laws.

126. Plaintiffs were victims of Defendants' common policy and practices which violate their rights under the FLSA and New York Labor Law by, *inter alia*, not paying them the wages they were owed for the hours they worked...

127. Defendants' pay practices resulted in Plaintiffs not receiving payment for all their hours worked, and resulting in Plaintiffs' effective rate of pay falling below the required minimum wage rate.

128. Defendants habitually required Plaintiffs to work additional hours beyond their regular shifts but did not provide them with any additional compensation.

129. Defendants willfully disregarded and purposefully evaded recordkeeping requirements of the FLSA and NYLL by failing to maintain accurate and complete timesheets and payroll records.

130. Defendants required Plaintiffs to sign a document the contents of which they were not allowed to review in order to release their wages

131. Defendants required all waitresses to perform general non-tipped tasks in addition to their primary duties as waitresses. These Plaintiffs and all similarly situated employees, ostensibly were employed as tipped employees by Defendants, although their actual duties included a significant amount of time spent performing non-tipped duties.

132. These Plaintiffs and all other tipped workers were paid at a rate that was below minimum wage by Defendants.

133. However, under state law, Defendants were not entitled to a tip credit because the tipped worker's and these Plaintiffs' non-tipped duties exceeded 20% of each workday (or 2 hours a day, whichever is less) (12 N.Y.C.R.R. § 146).

134. New York State regulations provide that an employee cannot be classified as a tipped employee on any day in which he or she has been assigned to work in an occupation in which tips are not customarily received. (12 N.Y.C.R.R. §§137-3.3 and 137-3.4). Similarly, under federal regulation 29 C.F.R. §531.56(e), an employer may not take a tip credit for any employee time if that time is devoted to a non-tipped occupation.

135. The waitresses' duties were not incidental to their occupation as tipped workers, but instead constituted entirely unrelated general restaurant work with duties, including the non-tipped duties described above.

136. In violation of federal and state law as codified above, Defendants classified these Plaintiffs and other tipped workers as tipped employees, and paid them at a rate that was below minimum wage when they should have classified them as non-tipped employees and paid them at the minimum wage rate.

137. Defendants failed to inform Plaintiffs who received tips that Defendants intended to take a deduction against Plaintiffs' earned wages for tip income, as required by the NYLL before any deduction may be taken.

138. Defendants failed to inform Plaintiffs who received tips, that their tips were being credited towards the payment of the minimum wage.

139. Defendants failed to maintain a record of tips earned by Plaintiffs who worked as waitresses for the tips they received.

140. Defendants took improper and illegal deductions of Plaintiffs' wages.

141. Defendants willfully disregarded and purposefully evaded recordkeeping requirements of the FLSA and NYLL by failing to maintain accurate and complete timesheets and payroll records.

142. Plaintiffs were paid their wages in cash.

143. Defendants failed to post at the workplace, or otherwise provide to employees, the required postings or notices to employees regarding the applicable wage and hour requirements of the FLSA and NYLL.

144. Upon information and belief, these practices by Defendants were done willfully to disguise the actual number of hours Plaintiffs (and similarly situated individuals) worked, and to avoid paying Plaintiffs properly for their full hours worked.

145. Defendants engaged in their unlawful conduct pursuant to a corporate policy of minimizing labor costs and denying employees compensation by knowingly violating the FLSA and NYLL.

146. Defendants' unlawful conduct was intentional, willful, in bad faith, and caused significant damages to Plaintiffs and other similarly situated former workers.

147. Defendants failed to provide Plaintiffs and other employees with accurate wage statements at the time of their payment of wages, containing: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked; and the number of overtime hours worked, as required by NYLL §195(3).

148. Defendants failed to provide Plaintiffs and other employees, at the time of hiring and on or before February 1 of each subsequent year, a statement in English and the employees' primary language, 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; 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; and the telephone number of the employer, as required by New York Labor Law §195(1).

FLSA COLLECTIVE ACTION CLAIMS

149. Plaintiffs bring their FLSA minimum wage, overtime compensation, and liquidated damages claims as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf of all similarly situated persons (the “FLSA Class members”), i.e., persons who are or were employed by Defendants or any of them, on or after the date that is three years before the filing of the complaint in this case (the “FLSA Class Period”).

150. At all relevant times, Plaintiffs and other members of the FLSA Class were similarly situated in that they had substantially similar job requirements and pay provisions, and have been subject to Defendants’ common practices, policies, programs, procedures, protocols and plans including willfully failing and refusing to pay them the required minimum wage, overtime pay at a one and one-half their regular rates for work in excess of forty (40) hours per workweek under the FLSA, and willfully failing to keep records required by the FLSA.

151. The claims of Plaintiffs stated herein are similar to those of the other employees.

FIRST CAUSE OF ACTION

VIOLATION OF THE MINIMUM WAGE PROVISIONS OF THE FLSA

152. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

153. At all times relevant to this action, Defendants were Plaintiffs’ employers within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203(d). Defendants had the power to hire and fire Plaintiffs (and the FLSA Class Members), controlled the terms and conditions of their employment, and determined the rate and method of any compensation in exchange for their employment.

154. At all times relevant to this action, Defendants were engaged in commerce or in an industry or activity affecting commerce.

155. Defendants constitute an enterprise within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203 (r-s).

156. In violation of 29 U.S.C. § 206(a), Defendants failed to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate.

157. Defendants' failure to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate was willful within the meaning of 29 U.S.C. § 255(a).

158. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

SECOND CAUSE OF ACTION

VIOLATION OF THE OVERTIME PROVISIONS OF THE FLSA

159. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

160. Defendants, in violation of 29 U.S.C. § 207(a)(1), failed to pay Plaintiffs (and the FLSA Class members) overtime compensation at a rate of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a work week.

161. Defendants' failure to pay Plaintiffs (and the FLSA Class members), overtime compensation was willful within the meaning of 29 U.S.C. § 255(a).

162. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

THIRD CAUSE OF ACTION

VIOLATION OF THE NEW YORK MINIMUM WAGE ACT

163. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

164. At all times relevant to this action, Defendants were Plaintiffs' employers within the meaning of the N.Y. Lab. Law §§ 2 and 651. Defendants had the power to hire and fire Plaintiffs, controlled the terms and conditions of their employment, and determined the rates and methods of any compensation in exchange for their employment.

165. Defendants, in violation of NYLL § 652(1) and the supporting regulations of the New York State Department of Labor, paid Plaintiffs less than the minimum wage.

166. Defendants' failure to pay Plaintiffs the minimum wage was willful within the meaning of N.Y. Lab. Law § 663.

167. Plaintiffs were damaged in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

VIOLATION OF THE OVERTIME PROVISIONS

OF THE NEW YORK STATE LABOR LAW

168. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

169. Defendants, in violation of N.Y. Lab. Law § 190 *et seq.*, and supporting regulations of the New York State Department of Labor, failed to pay Plaintiffs overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a work week.

170. Defendants' failure to pay Plaintiffs overtime compensation was willful within the meaning of N.Y. Lab. Law § 663.

171. Plaintiffs were damaged in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

VIOLATION OF THE NOTICE AND RECORDKEEPING

REQUIREMENTS OF THE NEW YORK LABOR LAW

172. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

173. Defendants failed to provide Plaintiffs with a written notice, in English and in Spanish (Plaintiffs' primary language), 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; 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; and the telephone number of the employer, as required by NYLL §195(1).

174. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

SIXTH CAUSE OF ACTION

VIOLATION OF THE WAGE STATEMENT PROVISIONS

OF THE NEW YORK LABOR LAW

175. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

176. With each payment of wages, Defendants failed to provide Plaintiffs with an accurate statement listing each of the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked; and the number of overtime hours worked, as required by NYLL 195(3).

177. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

SEVENTH CAUSE OF ACTION

RECOVERY OF EQUIPMENT COSTS

178. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

179. Defendants required Plaintiffs to pay, without reimbursement, the costs and expenses for purchasing and maintaining equipment and "tools of the trade" required to perform their jobs, further reducing their wages in violation of the FLSA and NYLL. 29 U.S.C. § 206(a); 29 C.F.R. § 531.35; N.Y. Lab. Law §§ 193 and 198-b.

180. Plaintiffs were damaged in an amount to be determined at trial.

EIGHTH CAUSE OF ACTION

UNLAWFUL DEDUCTIONS FROM WAGES IN VIOLATION

OF THE NEW YORK LABOR LAW

181. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

182. At all relevant times, Defendants were Plaintiffs' employers within the meaning of the N.Y. Lab. Law §§ 2 and 651.

183. Defendants made unlawful deductions from the wages of Plaintiffs and the members of the FLSA Class, including, but not limited to, deductions for meals returned to the kitchen by customers or for customer walkouts.

184. The deductions made from wages of Plaintiffs and the members of the FLSA Class were not authorized or required by law.

185. Through their knowing and intentional efforts to take unauthorized deductions from the wages of Plaintiffs and the members of the FLSA class, Defendants have willfully violated NYLL, Article 6, §§ 190 et seq., and supporting New York State regulations.

186. Plaintiffs have been damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants by:

(a) Designating this action as a collective action and authorizing prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all putative class members apprising them of the pendency of this action, and permitting them to promptly file consents to be Plaintiffs in the FLSA claims in this action;

(b) Declaring that Defendants violated the minimum wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA Class members;

(c) Declaring that Defendants violated the overtime wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA Class members;

(d) Declaring that Defendants violated the recordkeeping requirements of, and associated rules and regulations under, the FLSA with respect to Plaintiffs' and the FLSA Class members' compensation, hours, wages, and any deductions or credits taken against wages;

(e) Declaring that Defendants' violations of the provisions of the FLSA were willful as to Plaintiffs and the FLSA Class members;

(f) Awarding Plaintiffs and the FLSA Class members damages for the amount of unpaid minimum wage, overtime compensation, and damages for any improper deductions or credits taken against wages under the FLSA as applicable;

(g) Awarding Plaintiffs and the FLSA Class members liquidated damages in an amount equal to 100% of their damages for the amount of unpaid minimum wage and overtime compensation, and damages for any improper deductions or credits taken against wages under the FLSA as applicable pursuant to 29 U.S.C. § 216(b);

(h) Declaring that Defendants violated the minimum wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs;

(i) Declaring that Defendants violated the overtime wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs;

(j) Declaring that Defendants violated the notice and recordkeeping requirements of the NYLL with respect to Plaintiffs' compensation, hours, wages and any deductions or credits taken against wages;

(k) Awarding Plaintiffs damages for the amount of unpaid minimum wage and overtime compensation, and for any improper deductions or credits taken against wages as applicable

(l) Awarding Plaintiffs damages for Defendants' violation of the NYLL notice and recordkeeping provisions, pursuant to NYLL §§198(1-b), 198(1-d);

(m) Awarding Plaintiffs liquidated damages in an amount equal to one hundred percent (100%) of the total amount of minimum wage and overtime compensation shown to be owed pursuant to NYLL § 663 as applicable; and liquidated damages pursuant to NYLL § 198(3);

(n) Awarding Plaintiffs and the FLSA Class members pre-judgment and post-judgment interest as applicable;

(o) Awarding Plaintiffs and the FLSA Class members the expenses incurred in this action, including costs and attorneys' fees;

(p) Providing that if any amounts remain unpaid upon the expiration of ninety days following 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

(q) All such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable by a jury.

Dated: New York, New York
February 13, 2018

MICHAEL FAILLACE & ASSOCIATES, P.C.

By: /s/ Michael Faillace
Michael Faillace [MF-8436]
60 East 42nd Street, Suite 4510
New York, New York 10165
Telephone: (212) 317-1200
Facsimile: (212) 317-1620
Attorneys for Plaintiffs

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

January 31, 2018

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

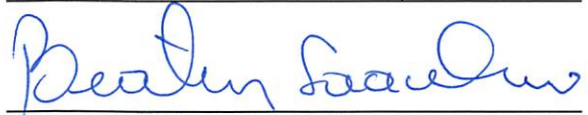
Name / Nombre:

Beatriz Saavedra

Legal Representative / Abogado:

Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

31 de enero de 2018

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

January 31, 2018

BY HAND

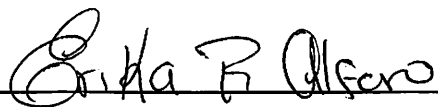
TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre: Erika Alfaro

Legal Representative / Abogado: Michael Faillace & Associates, P.C.

Signature / Firma: 

Date / Fecha: 31 de enero de 2018

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

January 31, 2018

BY HAND

TO: Clerk of Court,

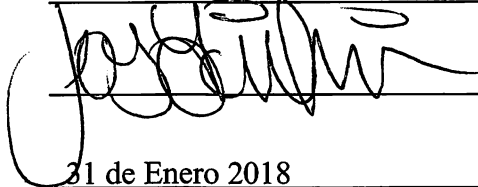
I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre: Jasbleidy Montejo

Legal Representative / Abogado: Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

31 de Enero 2018

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

BEATRIZ SAAVEDRA, ERIKA ALFARO, and JASBLEIDY MONTEJO, individually and on behalf of others 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) Michael A. Faillace, Michael Faillace & Associates, P.C. 60 East 42nd Suite 4510 New York, NY 10165

DEFENDANTS

THE TWIN KITTY BAKERY CORP. (D/B/A LA GATA GOLOSA), et al.

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, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, 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, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Plaintiffs seek unpaid overtime wages pursuant to The Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. Brief description of cause: unpaid 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 02/13/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael Faillace

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.

I, Michael Faillace, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? 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

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? N/A

(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: /s/ Michael Faillace

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) The Twin Kitty Bakery Corp.
82-63 Broadway
Elmhurst, New York 11373

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Two Brothers Bakery Corp.
89-01 37 Avenue
Jackson Heights, New York 11372

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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:

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Sweet Kiss Corp.
81-20 Roosevelt Avenue
Jackson Heights, New York 11372

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) 8263 Bakery Corp.
82-63 Broadway
Elmhurst, New York 11373

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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:

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) John Castro
89-01 37 Avenue
Jackson Heights, New York 11372

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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))

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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...

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Jose Castro
89-01 37 Avenue
Jackson Heights, New York 11372

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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

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Reset

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Max Castro
89-01 37 Avenue
Jackson Heights, New York 11372

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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)*:

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

Date: _____

Server's signature

Printed name and title

Server's address

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BEATRIZ SAAVEDRA, ERIKA ALFARO, and
JASBLEIDY MONTEJO, individually and on behalf of
others similarly situated,

Plaintiff(s)

v.

The Twin Kitty Bakery Corp. (d/b/a La Gata Golosa)
et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Wendy A Castro
82-63 Broadway
Elmhurst, New York 11373

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: Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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.

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))

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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.

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [La Gata Golosa Owes Unpaid Wages, Three Plaintiffs Claim](#)
