

JUDGE PAULEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CV 1564

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ENRIQUETA LUNA and INELIA GABRIELA
ORTEGA,

Plaintiffs,

- against -

LORENZO AND MARIA'S 1418 KITCHEN CO.,
MARIA ALMENDARIZ, and NICODEMUS
PEDRAZA,

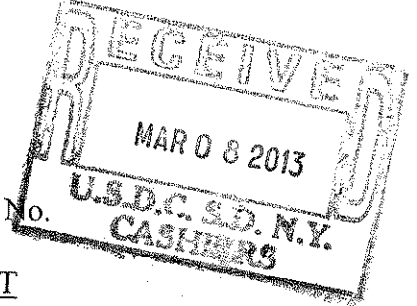
Defendants.
-----X

ECF CASE

Civil Docket No.

COMPLAINT

JURY TRIAL DEMANDED



Plaintiffs Enriqueta Luna and Inelia Gabriela Ortega (collectively, "plaintiffs"), for their complaint, allege, upon personal knowledge as to themselves and information and belief as to other matters, as follows:

PRELIMINARY STATEMENT

1. Plaintiffs are low-wage workers who worked up to 14-hour days, six days per week, for defendant Maria Almendariz ("Almendariz"). Their work was mostly in the catering and take-out business that she operated, but also doing housework and any other duties Almendariz saw fit to assign them in her various personal and business undertakings. Over the course of several years of employment plaintiffs were not properly paid for their long hours. Plaintiffs also endured persistent sexual, racial and national origin-based harassment from Almendariz and her boyfriend, defendant Nicodemus Pedraza ("Pedraza"), who Almendariz installed as chef at her business.

2. Plaintiffs seek to recover damages arising out of their employment by Almendariz, who owns and operates Lorenzo and Maria's 1418 Kitchen Co. ("Company").

Almendariz and the Company operate a take-out and catering facility and store, Lorenzo & Maria's Kitchen ("Kitchen"), located on the Upper East Side of Manhattan.

3. Plaintiff Ortega also brings this action to recover damages arising out of her domestic employment at the Manhattan home of Almendariz and Pedraza, and at their Long Island vacation home.

4. Plaintiffs are former employees of the Company and of Almendariz, who own and operate the Kitchen. Plaintiff Ortega is also a former employee of Almendariz as a domestic worker and caretaker for her and Pedraza's son.

5. Plaintiffs bring this action to remedy the Company and Almendariz's failure to pay minimum wage and overtime, in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq.*, the New York Minimum Wage Act, New York Labor Law ("Labor Law") §§ 190 and 650, *et seq.*, and applicable regulations.

6. Plaintiffs also seek redress for the Company and Almendariz's unlawful race discrimination in violation of Section 1981 of the Civil Rights Act of 1866 ("Section 1981"), 42 U.S.C. § 1981, and for the Company, Almendariz and Pedraza's unlawful race, sex and national origin discrimination in violation of New York State Human Rights Law ("Human Rights Law"), Executive Law § 296, *et seq.*, and the New York City Human Rights Law ("City Law"), N.Y.C. Administrative Code § 8-107, *et seq.*

7. Plaintiffs seek declaratory relief, unpaid wages for work performed, compensatory, punitive and liquidated damages, together with reasonable attorney's fees, costs of this action, pre- and post-judgment interest, and other appropriate relief pursuant to the FLSA, Labor Law, Section 1981, the Human Rights law and City Law.

JURISDICTION AND VENUE

8. This court has subject matter jurisdiction over plaintiffs' federal claims pursuant to 28 U.S.C. § 1331, 29 U.S.C. § 216(b), and 42 U.S.C. § 1988(a).

9. This court has supplemental jurisdiction over plaintiffs' Labor Law, Human Rights Law and City Law claims pursuant to 28 U.S.C. § 1367, because those claims closely relate to the federal claims, arise from a common nucleus of operative facts, and form part of the same case or controversy.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District, and because defendants reside in this District.

STATEMENT OF FACTS

Parties

11. Plaintiff Enriqueta Luna ("Luna") is a Mexican immigrant who resides in Manhattan, New York.

12. Plaintiff Inelia Gabriela Ortega ("Ortega") is a Peruvian immigrant who resides in Queens, New York.

13. Upon information and belief, the Company is a New York corporation with its principal place of business located at 1418 Third Avenue, New York, New York 10028. Upon information and belief, the Company has owned and operated the Kitchen at all times relevant to this action.

14. Upon information and belief, Almendariz is the principal of the Company and owner of the Kitchen. Upon information and belief, Almendariz resides at 360 72nd Street, New York, New York 10021.

15. During all times relevant to this action, the Company and Almendariz were plaintiffs' employers within the meaning of the FLSA, Labor Law, Section 1981, the Human Rights Law and the City Law.

16. During all times relevant to this action, plaintiffs were employees of the Company and of Almendariz within the meaning of the FLSA, Labor Law, Section 1981, the Human Rights Law and the City Law.

17. During all times relevant to this action Almendariz had the power to hire and fire plaintiffs, control their terms and conditions of employment, maintain employment records and determine the rate and method of any compensation provided to plaintiffs. For example, Almendariz hired the plaintiffs, set their rate of compensation, and dictated their work schedules. Almendariz is sued in her individual capacity as an employer.

18. Upon information and belief, the Company is an enterprise engaged in interstate commerce. The Company's employees, handle, sell and work on goods and materials that have moved in commerce. For example, plaintiffs helped prepare and sell food and drink that had been delivered from out-of-state suppliers, and, upon information and belief, the Kitchen delivered food and drink to out-of-state customers.

19. Upon information and belief, during their employment by the Company, plaintiffs were engaged in the production of goods for commerce. For example, plaintiffs prepared food to be served to out-of-state customers.

20. Upon information and belief, Pedraza is Almendariz's romantic partner, and the father of her son. At all times relevant to this action, Pedraza worked at the Kitchen as a chef. Upon information and belief, defendant Pedraza resides with Almendariz at 360 72nd Street, New York, New York 10021.

Luna's Employment at the Kitchen

21. Luna worked for the Company and Almendariz, mostly at the Kitchen as a kitchen helper, from approximately October 1999 through approximately December 2011, with breaks in employment of about four months in the summer of 2008, and three months in 2010.

22. At the Kitchen, Luna primarily worked in the kitchen and assisted with the preparation of food and with the cleaning and maintenance of the kitchen and storefront.

23. During the periods of time covered by this action, Luna started her workday at approximately 8:30 a.m., and ended her workday at approximately 10:00 p.m., although she occasionally worked much later into the night as required by Almendariz.

24. Although the vast majority of Luna's employment for the Company and Almendariz involved working at the Kitchen, occasionally Almendariz asked Luna to do other work, including accompany Almendariz and Pedraza's son to his school, and clean apartments belonging to tenants in buildings owned by Almendariz.

25. Luna almost always worked six days per week, Monday through Saturday, throughout her employment by the Company and Almendariz.

26. Throughout Luna's employment, she almost always worked for the Company and Almendariz in excess of 40 hours per week.

27. From October 1999 through approximately June 2001 Almendariz paid Luna \$300 in cash per week.

28. After on or around June 2001, Luna's pay was increased to a rate of \$400.00 per week, though the Company and Almendariz sometimes failed to make such payments on a weekly basis.

29. After Luna's pay was increased to \$400 per week, Almendariz began to pay Luna's wages using hand-written checks drawn on a Company account and made out to "cash." These checks contained no information about the number of hours that the checks covered, or how the amounts paid were calculated.

30. Luna was not paid for the last four weeks of her employment in approximately December 2011.

Ortega's Employment at the Kitchen and as a Domestic Worker

31. Ortega worked for Almendariz and for the Company, doing both domestic work at the Almendariz and Pedraza's homes and counter assistant and other work at the Kitchen.

32. Almendariz employed Ortega as a domestic worker, from approximately November 2007 until approximately March 13, 2012.

33. As a domestic worker, Ortega performed cleaning, laundering and housekeeping tasks at Almendariz and Pedraza's Manhattan home and their Long Island vacation home, as well as providing care and supervision of their son, who is currently approximately 15 years old.

34. At the outset of Ortega's employment as a domestic worker, she worked from approximately 11:00 a.m. until approximately 4:30 p.m., Monday through Saturday, six days per week.

35. Even during the period that Ortega worked solely as a domestic worker, Almendariz frequently required Ortega to punch in and out at the start and end of each workday at the punch clock located at the Kitchen. After punching in, Ortega would walk over to Almendariz's apartment, a few blocks away. Similarly, after Ortega finished her domestic chores at the apartment, she would walk back to the Kitchen to punch out, in accordance with Almendariz's instructions.

36. Occasionally Almendariz instructed Ortega to help out at the Kitchen or to perform other work on days when she was also working as a domestic worker at the apartment. For example, Almendariz would ask Ortega to iron the uniforms in the Kitchen's basement. On a few occasions she also asked Ortega to clean tenants' apartments in buildings Almendariz owned that are located in the same block as the Kitchen.

37. In or around February of 2008 Ortega's hours of work increased, and she began working from approximately 10:00 a.m. to approximately 6:00 or 7:00 p.m., Monday through Saturday, although the hours varied, and sometimes Almendariz required her to start earlier and stay later than 7:00 p.m.

38. From the beginning of her employment as a domestic worker in November 2007 until approximately November 2011, in addition to her regular schedule, Ortega accompanied Almendariz and Pedraza to their Long Island vacation home approximately two Sundays per month to clean the home and to care for their son.

39. On these Sundays, Ortega arrived at Almendariz and Pedraza's Manhattan apartment at approximately 8:00 a.m., traveled by car with them to Long Island, and returned to Manhattan at approximately 10:00 or 11:00 p.m.

40. In approximately October 2011, Almendariz required Ortega to take on more regular work at the Kitchen, with roughly the same 11:00 a.m. to 4:30 p.m. schedule, dividing her time between the work at the Kitchen and her work as a domestic worker at the apartment.

41. At the Kitchen, Ortega primarily worked as counter assistant, performing activities such as packing food for take-out and maintaining display cases.

42. In or around December 2011, after Luna stopped working at the Kitchen, Ortega's hours increased again. From December 2011 until approximately March 13, 2012, Ortega

arrived at the Kitchen at around 8:00 or 9:00 a.m., worked there until about 4:00 p.m., and then walked directly to the apartment, where she cleaned and performed other domestic work until about 6:00 or 7:00 p.m. After that she would return to the Kitchen and work until about 10:00 p.m., helping clean and prepare for the following day.

43. Almendariz typically paid Ortega \$600.00 per week.

44. Sometimes, Almendariz paid Ortega an additional \$100.00 per week if she worked on Sundays; on other occasions Almendariz required Ortega to work on Sundays while still only paying her \$600.00 per week.

45. Almendariz sometimes paid Ortega in cash, and sometimes paid her using handwritten checks made out to "cash." These checks were drawn on the Company's account. They contained no information about the number of hours that the checks covered, or how the amounts paid were calculated.

46. On a few occasions Ortega was not paid at all for her work, and Ortega was not paid for her final week of work.

Additional Facts Related to both Plaintiffs' Wage Claims

47. The Company and Almendariz maintained a time clock at the Kitchen, and generally required that all their employees, including plaintiffs, punch in and out at the beginning and ending of each workday. However, Pedraza would often punch employees' time cards as if they were punching out, even though the employees were still working and their shifts were not over.

48. The Company and Almendariz also sometimes required employees to punch in and out for a 30-minute lunch break, but plaintiffs did not usually get an opportunity to take a 30-minute lunch break.

49. The Company and Almendariz did not inform plaintiffs of their right to minimum wage payments.

50. The Company and Almendariz did not maintain any displays or postings on the premises of the Kitchen informing plaintiffs of their right to minimum hourly wage payments.

51. The Company and Almendariz did not inform plaintiffs of their regular hourly rate of pay.

52. The Company and Almendariz did not inform plaintiffs of their right to overtime pay for work in excess of 40 hours in one week.

53. The Company and Almendariz did not pay plaintiffs an overtime premium for work in excess of 40 hours in one week.

54. The Company and Almendariz did not pay plaintiffs any additional compensation for any days in which the interval between the beginning and end of the workday was greater than 10 hours ("spread of hours" pay).

55. The Company and Almendariz did not provide plaintiffs with written wage statements concurrent with the payment of wages.

56. The Company and Almendariz made illegal deductions from plaintiffs' wages. For example, plaintiffs' pay was cut if they did not remember to sign their time cards. In addition, plaintiffs were not paid at all for certain days that they worked.

57. Almendariz did not provide Ortega with three days of paid time off a year, as required by as required by New York Labor Law § 161(1).

58. In weeks when Ortega worked on Sundays, her day of rest, Almendariz did not pay her at an overtime wage rate, as required by New York Labor Law § 161(1).

59. Upon information and belief, the Company and Almendariz knowingly, intentionally, and willfully committed the acts alleged herein.

Facts Related to Luna's Discrimination Claims

60. Luna is a dark-skinned woman of Mexican descent.

61. While working at the Kitchen, Luna was subjected to discrimination based on her national origin, race, and sex. For example:

- a. Almendariz, who is light-skinned and is from Uruguay, would regularly call Luna a "dirty Mexican" who "only came to the United States to steal."
- b. Almendariz also yelled at Luna and told her that she was an old, fat woman with a "big ass" that was "darker than a donkey."
- c. Almendariz and Pedraza frequently called Luna a "puta" ("whore").
- d. Pedraza also made sexually explicit jokes, gestures and comments to the women in the workplace, including to Luna. Examples of the type of comments include telling Luna to "get on all fours" so he could have sex with her, to "get on the table so he could f--- her in the a--" and to "s--k his d--k."
- e. Pedraza also exposed his genitalia to Luna multiple times.

62. When Pedraza harassed her and others, Luna sometimes would tell him to stop, that he should be respectful, that he shouldn't treat women that way because he also had a mother. Pedraza would respond by yelling at her and calling her a "puta" or laughing at her.

63. Luna often complained to Almendariz about Pedraza's behavior, but Almendariz responded by yelling at Luna, accusing her of provoking Pedraza, and instructing her to ignore Pedraza.

64. Luna contemplated resigning from the Company and Almendariz because of the Pedraza's harassment, but did not because she felt she had no other job options available to her and needed to support herself and her children.

65. The harassment caused Luna to have severe stomach pain and nausea, which caused her to miss work a few times. One day in December 2011, after staying at the Kitchen until about 11:30 p.m. the previous evening, she woke up feeling very sick and could barely stand. Luna telephoned Almendariz and said that she could not come in to work. Almendariz got very angry and yelled at her and told her that she didn't need her and to stay away from her and the Kitchen, after which she hung up on Luna.

66. Although a couple of days later Almendariz telephoned Luna and asked her to come back to work, Luna decided that she did not want to return to work.

Facts Related to Ortega's Discrimination Claims

67. Ortega is a woman of Chilean descent, and of Peruvian nationality.

68. While employed as a domestic worker and as a worker at the Kitchen, Ortega was subjected to discrimination based on her national origin, race and sex. For example:

- a. Almendariz constantly made comments such as "Thank God I'm not Chilean," and "All Chileans are whores."
- b. Almendariz frequently called her "India Peruana," suggesting that Ortega was inferior because many Peruvians have indigenous roots.
- c. Almendariz constantly called Ortega "puta" and "puta de la casa" ("whore" and "whore of the house") and alleged she had loose sexual habits.
- d. Almendariz called Ortega "machona," which is a slang term for a gay woman.

- e. Almendariz also asked Ortega about a book that she was reading and commented that it was “probably about how to trap a man.”
- f. Pedraza often called Ortega “puta” and commented on her appearance, saying that she had “nice t--s.”
- g. Pedraza also grabbed Ortega’s buttocks, which she stopped him from doing immediately.
- h. Pedraza telephoned Ortega and told her he wanted to have sex with her and about a dream he had when he was “sucking on her t--s.”
- i. At the Kitchen, Pedraza constantly made sexually explicit jokes, gestures and comments at the Kitchen, including telling Ortega that he wanted to see her in all fours in a sexual position.

69. Ortega tried not to answer the telephone if she suspected the call was from Pedraza, and she told Pedraza the first time that he called that she was not interested in him, did not want any problems with her employment, and needed her job. Pedraza persisted, sometimes calling Ortega from a restricted telephone number, and saying obscene things to her anyway. On at least one occasion Pedraza called Ortega during her shift at the apartment, telling her that he was thinking of coming to the apartment, implying that he wanted to have sex with her there.

70. When Pedraza harassed Ortega, she would sometimes tell him in Spanish that he was “mistaken,” in other words, that she was not the kind of person that he should treat that way. Mostly, however, she tried to ignore and stay away from him.

71. Ortega did not complain to Almendariz about Pedraza’s harassment of her because she knew that they were a couple and that Almendariz would only become angry and take his side. Ortega believed that Almendariz, who frequently described Ortega as a “puta”

(whore), would blame Ortega for Pedraza's conduct. Ortega was also very afraid of Almendariz, because she has a terrible temper and would get very angry when employees "talked back" to her. Sometimes Almendariz would threaten physical violence against Ortega and others, and Almendariz sometimes hit her and the Company's employees.

72. Because of the constant harassment by Almendariz and Pedraza, Ortega was forced to quit her job on or around March 13, 2012.

FIRST CAUSE OF ACTION

(Unpaid Minimum Wage under FLSA against the Company and Almendariz)

73. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

74. At all times relevant to this action, with the exceptions noted above, the Company and Almendariz were plaintiffs' employers within the meaning of 29 U.S.C. § 203(d).

75. The Company and Almendariz failed to compensate plaintiffs at the applicable hourly minimum wage for all hours worked, in violation of 29 U.S.C. § 206(a).

76. The Company and Almendariz's violations of the FLSA, as described in this complaint, were willful.

77. Due to these FLSA violations, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, their unpaid minimum wages and an equal amount in the form of liquidated damages, as well as reasonable attorney's fees and costs of the action, all in an amount to be determined at trial.

SECOND CAUSE OF ACTION

(Claim for Minimum Wages under New York Labor Law against the Company and Almendariz)

78. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

79. At all times relevant to this action, with the exceptions noted above, plaintiffs were employed by the Company and Almendariz within the meaning of New York Labor Law §§ 2(5) and 651(5).

80. At all times relevant to this action, the Company and Almendariz were employers within the meaning of New York Labor Law §§2(6), 190(3), and 651(6).

81. The Company and Almendariz failed to record, credit and compensate plaintiffs the applicable minimum hourly wage, in violation of the New York Minimum Wage Act, New York Labor Law § 652, and all applicable regulations.

82. Due to these violations of New York Labor Law, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, their unpaid minimum wages and required allowances and an amount equal to one hundred percent of their unpaid minimum wages in the form of liquidated damages, as well as reasonable attorney's fees and costs of the action, and pre-judgment interest, all in an amount to be determined at trial.

THIRD CAUSE OF ACTION

(Claim for Overtime Wages under FLSA against the Company and Almendariz)

83. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

84. The Company and Almendariz failed to pay plaintiffs overtime wages for hours worked in excess of 40 hours per week at a wage rate of one-and-a-half times either their regular

rate of pay or the minimum wage rate to which they were entitled, whichever was higher, in violation of 29 U.S.C. § 207(a)(1).

85. The Company and Almendariz's violations of the FLSA as described in this complaint have been willful.

86. Due to these FLSA violations, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, their unpaid overtime wages and an equal amount in the form of liquidated damages, as well as reasonable attorney's fees and costs of the action, all in the amount to be determined at trial.

FOURTH CAUSE OF ACTION

(Claim for Overtime Wages under New York Labor Law against the Company and Almendariz)

87. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

88. The Company and Almendariz failed to pay plaintiffs minimum wages for hours worked in excess of 40 hours per week at a wage rate of one-and-a-half times either their regular rate of pay or the minimum wage to which they were entitled to receive under New York Labor Law § 652, whichever was higher, in violation of 12 N.Y.C.R.R. § 137-1.3 (pre-2011) and 12 N.Y.C.R.R. § 146-1.4 (2011).

89. The Company and Almendariz's violations of New York Labor Law, as described in this complaint, have been willful.

90. Due to these violations of New York Labor Law, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, their unpaid overtime wages and an amount equal to one hundred percent of their unpaid overtime wages in the form of liquidated

damages, as well as reasonable attorney's fees and costs of this action, and pre-judgment interest, all in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

(Claim for Spread of Hours Payments under New York Labor Law against the Company and Almendariz)

91. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

92. Under New York law, an employees is entitled to an extra hour of wages for any day when the employee's "spread of hours" exceeds 10 hours. 12 N.Y.C.R.R. § 137-1.7 (pre-2011); 12 N.Y.C.R.R. § 146-1.6 (2011). "Spread of hours" is defined as "the interval between the beginning and end of the workday." *Id.*

93. The Company and Almendariz regularly required plaintiffs to work in excess of 10 hours a day throughout their employment.

94. The Company and Almendariz did not provide the required additional compensation for any days during which the spread of hours worked by plaintiffs exceeded 10 hours.

95. The Company and Almendariz's violations of the New York Labor Law, as described in this complaint, have been willful.

96. Accordingly, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, all spread of hours payments in the form of one hour of additional pay at the minimum wage rate for each day in which plaintiffs had a spread of hours in excess of ten hours, liquidated damages, reasonable attorney's fees and costs of the action, and pre-judgment interest, all in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

(Claim for Failure to Provide Pay Statements under New York Labor Law against the Company and Almendariz)

97. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

98. Under New York law, effective April 9 2011, employers are required to provide employees with a statement of their wages, including but not limited to: the dates of work covered by that payment of wages; the employee's regular hourly rate of pay; the employee's overtime rate of pay; the number of regular hours worked, and the number of overtime hours worked. New York Labor Law § 195.3.

99. The Company and Almendariz failed to provide plaintiffs with the required written statement of their wages concurrent with the payment of wages.

100. The Company and Almendariz's violations of New York Labor law, as described in this Complaint, have been willful.

101. Accordingly, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, damages of \$100 per week dating from April 9, 2011 for each week of employment that the Company and Almendariz failed to provide Plaintiffs with such written notices as well as reasonable attorney's fees, pursuant to New York Labor law § 198.1-d., and costs of the action, and pre-judgment interest, all in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION

(Claim for Illegal Deduction under New York Labor Law Against the Company and Almendariz)

102. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

103. New York Labor Law § 193(1) prohibits an employer from making deductions from employees' wages, with certain exceptions.

104. The Company and Almendariz made illegal deductions from plaintiffs' wages in violation of New York Labor Law § 193(1).

105. The Company and Almendariz's violations of New York Labor Law as described in this Complaint have been willful.

106. Accordingly, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, all amounts deducted from their wages, liquidated damages, reasonable attorney's fees and costs of the action, and pre-judgment interest, all in an amount to be determined at trial.

EIGHTH CAUSE OF ACTION

(Discrimination under § 1981 against the Company and Almendariz)

107. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

108. By the acts and practices described above, the Company and Almendariz discriminated against plaintiffs in the terms and conditions of their employment on the basis of race in violation of 42 U.S.C. § 1981.

109. Defendants acted intentionally and with malice and/or reckless disregard for plaintiffs' rights.

110. As a result of the Company and Almendariz's discriminatory acts, plaintiffs have suffered and continue to suffer irreparable injury, monetary damages, emotional distress and other compensable damages.

111. Accordingly, plaintiffs are entitled to recover from the Company and Almendariz, jointly and severally, compensatory damages, punitive damages, reasonable attorney's fees and costs of the action, and pre-judgment interest, all in an amount to be determined at trial.

NINTH CAUSE OF ACTION

(Discrimination under the New York State Human Rights Law against all Defendants)

112. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

113. By the acts and practices described above, the Company and Almendariz discriminated against plaintiffs in the terms and conditions of their employment on the basis of their national origin, race and gender, in violation of the New York State Human Rights Law, N.Y. Exec. Law § 296(1).

114. In addition, by the acts and practices described above, Pedraza, acting as an aider and abettor, discriminated against plaintiffs in the terms and conditions of their employment on the basis of their gender, in violation of the New York State Human Rights Law, N.Y. Exec. Law § 296(6).

115. By the acts and practices described above, Almendariz discriminated against Ortega in the terms and conditions of her employment as a domestic worker on the basis of her national origin, race and gender, in violation of the New York State Human Rights Law, N.Y. Exec. Law § 296-b.

116. Defendants acted intentionally and with malice and/or reckless disregard for plaintiffs' rights.

117. Plaintiffs have suffered and continue to suffer irreparable injury, monetary damages, mental anguish and humiliation as a result of defendants' discriminatory practices.

118. Accordingly, plaintiffs are entitled to recover from the defendants, jointly and severally, compensatory damages in an amount to be determined at trial.

TENTH CAUSE OF ACTION

(Discrimination under the New York City Human Rights Law against all Defendants)

119. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

120. By the acts and practices described above, defendants discriminated against plaintiffs in the terms and conditions of their employment on the basis of their national origin, race and gender, in violation of violation of the New York City Human Rights Law, N.Y.C. Administrative Code § 8-107, *et seq.*

121. Moreover, by the acts and practices described above, Pedraza, acting as an aider and abettor, discriminated against plaintiffs in the terms and conditions of their employment on the basis of their gender, in violation of the New York City Human Rights Law, N.Y.C. Administrative Code § 8-107(6).

122. Defendants acted intentionally and with malice and/or reckless disregard for plaintiffs' rights.

123. Plaintiffs have suffered and continue to suffer irreparable injury, monetary damages, mental anguish and humiliation as a result of defendants' discriminatory practices.


124. Accordingly, plaintiffs are entitled to recover from the defendants, jointly and severally, compensatory damages, punitive damages, reasonable attorney's fees and costs of the action, and pre-judgment interest, all in an amount to be determined at trial.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request this Court to grant them the relief requested as follows:

1. Declaring defendants' conduct complained of herein to be in violation of plaintiffs' rights under the Fair Labor Standards Act, the New York Labor Law, 42 U.S.C. § 1981, the New York State Human Rights Law and the New York City Human Rights Law;
2. Awarding plaintiffs compensatory damages;
3. Awarding plaintiffs liquidated damages;
4. Awarding plaintiffs punitive damages;
5. Awarding plaintiffs pre-judgment and post-judgment interest;
6. Awarding reasonable attorney's fees, costs, and expenses; and
7. Ordering such other and further relief that the Court deems just and proper.

Dated: March 6, 2013
New York, New York



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