

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

GENDRI CASTILLO, NILDA BATIZ, CARINA
CASTILLO-BERMUDEZ, JULIANA LALI,
JULIA MEJIA, DARLIN RIVAS, AND LILIAN
SOLANO, on behalf of themselves and all others
similarly situated,

Plaintiffs,

- against -

BNV HOME CARE AGENCY, INC.
ACADEMY CARE GIVERS, INC., BORIS
KUCHER, and RIVA FALIKMAN,

Defendants.

Index No. _____

SUMMONS

Place of Trial: New York County


The basis of venue is Defendants'
place of business.

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiffs' attorneys within twenty (20) days after the service of this summons exclusive of the date of service (or within thirty (30) days after the service if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded below.

Dated: March 4, 2013
New York, New York

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BORIS KUCHER
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Brooklyn, New York 11230

RIVA FALIKMAN
500 Willis Avenue, Floor 2
Bronx, New York 10455

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CARE GIVERS, INC., BORIS KUCHER, and
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Index No.

CLASS ACTION COMPLAINT

Jury Trial Demanded

Plaintiffs, Gendri Castillo, Nilda Batiz, Carina Castillo-Bermudez, Juliana Lali, Julia Mejia, Darlin Rivas and Lilian Solano (collectively "plaintiffs"), by their undersigned attorneys, for this class action complaint against defendants, allege upon information and belief, except as to the allegations that pertain to plaintiffs which are alleged upon personal knowledge, as follows:

1. Plaintiffs brings this class action, individually and on behalf of a class of similarly situated employees, to seek redress for systematic and class wide underpayment of minimum wage and overtime pay against BNV Home Care Agency, Inc. ("BNV") and Academy Care Givers, Inc. ("Academy"), providers of home health care for the elderly and infirm in and around the City of New York, Boris Kucher ("Kucher"), President of BNV, and Riva Falikman ("Falikman"), current owner, chairperson or chief executive officer of Academy (collectively, the "defendants").

2. Defendants' unlawful practices, in violation of the provisions of the New York Labor Law and applicable regulations, include, but are not limited to, the failure to pay plaintiffs and the class they seek to represent for all wages due for work performed and overtime at not less than one and one-half times the minimum hourly rate for all hours worked in excess of 40 hours in a workweek, as well as failure to pay the "spread of hours" premium required by the New York Labor Law and applicable regulations.

3. On behalf of the class, plaintiffs seek unpaid wages, actual, incidental, consequential and compensatory damages, pre- and post-judgment interest, and attorney's fees and costs. To prevent recurrence of this conduct, plaintiffs also seek injunctive relief on behalf of themselves and the class.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action because defendants operate their business in the State of New York, County of New York.

5. Venue in this Court is proper under CPLR § 503. Defendants regularly conduct business in the State of New York and within New York County. Some of the work that is the subject of plaintiffs' claims was performed in New York County. Accordingly, plaintiffs' causes of action arise in this venue.

6. Plaintiffs bring causes of action based solely on and arising under New York law. The claims of plaintiffs and the class are claims for violations of New York law. These claims arise from defendants' systematic wage abuse against its home health care workers in New York.

PARTIES

7. Plaintiffs Gendri Castillo, Nilda Batiz, Carina Castillo-Bermudez, Juliana Lali, Julia Mejia, Darlin Rivas and Lilian Solano are each individuals residing in New York City, in

Bronx County. Each plaintiff is a former employee of defendants, and was employed as a home health care worker employed by defendants to work in and around the city of New York to provide personal care and assistance to disabled and elderly clients of defendants.

8. Defendant BNV Home Care Agency, Inc. was and is a home care service agency licensed by the New York State Department of Health. On information and belief, BNV is a domestic business corporation with offices located at 96-60 Queens Boulevard, Rego Park, New York 11374; 605 Brighton Avenue, 2nd Floor, Brooklyn, New York 11230; and 500 Willis Avenue, Floor 2, Bronx, New York 10455.

9. Defendant Academy Care Givers, Inc. was and is a home care service agency licensed by the New York State Department of Health. On information and belief, Academy is a domestic business corporation with its principal place of business at 500 Willis Avenue, Floor 2, Bronx, New York 10455.

10. On information and belief, defendant Boris Kucher, an individual residing in Kings County, is the president of BNV. On information and belief, his office or usual place of business is 96-60 Queens Boulevard, Rego Park, New York 11374 and 605 Brighton Avenue, 2nd Floor, Brooklyn, New York 11230. At all times relevant to this action, defendant Kucher possessed and exercised operational control and policy-making authority over employment policies, compensation policies, budgets, employee wages, hours and schedules and client services.

11. On information and belief, defendant Riva Falikman, an individual residing in Kings County, is the current owner, chairman or chief executive officer of Academy. On information and belief, her office or usual place of business is 500 Willis Avenue, Floor 2, Bronx, New York 10455. Since approximately October 2011, defendant Falikman possessed

and exercised operational control and policy-making authority over employment policies, compensation policies, budgets, employee wages, hours and schedules and client services.

12. At all times relevant to this action, plaintiffs and the class were “employees” covered by the New York Labor Law, and defendants were “employers” of plaintiffs and the class of home health care workers they seek to represent, as those terms are defined by New York Labor Law §§ 651 (5) and (6) and applicable regulations, 12 NYCRR § 142-2.14.

CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this case pursuant to CPLR Article 9 on behalf of a class (the “class”) of all current and former hourly paid home health care workers employed by defendants in New York for work performed during the period from July 22, 2006 through the entry of judgment (the “class period”).

14. The class is so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, and the facts are presently within the sole knowledge of defendants, there are hundreds of home health care workers employed by defendants as of the date this complaint is filed. Since the class also includes former employees since July 22, 2006, the class is sufficiently numerous to warrant certification.

15. There are questions of law or fact common to the class that predominate over any questions affecting individual members. Those questions include but are not limited to the following:

a. whether defendants have and are engaged in a pattern or practice of not paying all wages due for work performed and overtime, that is, one and one half times the minimum hourly rate for all hours worked in excess of 40 in a work week;

b. whether defendants violated the New York Labor Law by failing to pay plaintiffs and the class overtime wages and an extra hour's pay for the "spread of hours" worked;

c. whether defendants violated the New York Labor Law by failing to pay Plaintiffs and the class all wages, including overtime wages, in the proper pay period;

d. whether defendants should be enjoined from continuing the alleged wrongful practices in violation of New York Labor Law and applicable regulations; and

e. what is the proper measure of damages for the type of injury and losses commonly suffered by plaintiffs and the class.

16. Plaintiffs' claims are typical of the claims of the class, because they are all current or former hourly paid home health care employees of defendants who sustained damages, including underpayment of wages, as a result of defendants' common compensation policies and practices. The defenses that likely will be asserted by defendants against plaintiffs are typical of the defenses that defendants will assert against the class members.

17. Plaintiffs will fairly and adequately protect the interests of the class and have retained counsel experienced in pursuing complex and class action litigation who will adequately and vigorously represent the interests of the class.

18. Class action treatment is superior to other available methods for the fair and efficient adjudication of the controversy alleged herein. Treating this as a class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would entail. As a practical matter, absent a class action, there will be no lawsuits to recover the unpaid wages due to plaintiffs and the class because the

amounts due and owing to each class member are too small to warrant the filing of individual litigation. Moreover, class members would be reluctant to file individual claims for fear of retaliation. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action, and no superior alternative exists for the fair and efficient adjudication of this controversy. The class is readily identifiable from records that defendants are legally required to maintain. Each class member's damages can be similarly readily computed using these required records.

19. On information and belief, no individual class member has any interest in individually controlling the prosecution of a separate individual action. On information and belief, no other suits or complaints have been filed by any class member, except as set forth below. In order to pursue these claims in a class action, plaintiffs are waiving any claim on their own behalf or on behalf of the class in this lawsuit for liquidated damages under the New York Labor Law.

20. A previous class action complaint was filed against defendants by four former employees of the defendants in this Court on or around November 30, 2011 (Index Number 653305/2011). The lawsuit, brought individually and on behalf of all current and former hourly paid home health care workers employed by Defendants for work performed in the State of New York from November 30, 2005 raised wage and hour claims similar to those in this complaint. That lawsuit was resolved individually, and the Stipulation and Order of Discontinuance filed May 24, 2012 stipulated that the lawsuit was discontinued with prejudice only as to the claims of the four individual plaintiffs, and thus without prejudice as to all other class members. The named plaintiffs in this case did not participate in the prior lawsuit or settlement.

21. Prosecution of separate actions by individual class members would create the risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for defendants.

22. Defendants have acted, or failed to act, on grounds generally applicable to the class.

23. Without a class action, defendants will likely retain the benefit of their wrongdoing and will continue a course of action which will result in further damages to plaintiffs and the members of the class.

STATEMENT OF FACTS

24. During the relevant period, plaintiffs were home health care workers employed by defendants to work in and around the City of New York to provide personal home health care and assistance to disabled and elderly clients of defendants. Plaintiffs provided personal care and assistance to clients based upon a schedule set and dictated by defendants.

25. Plaintiffs' duties as home health care workers included, but were not limited to, helping clients bathe, dress, eat, and perform other basic daily functions, and changing bed linens. In addition, some plaintiffs cleaned their clients' homes, and did laundry and grocery shopping, and accompanied clients to medical appointments, and picked up prescriptions.

26. Plaintiffs initially were hired by defendant Academy, but were later transferred to the employment of BNV without explanation from defendants. Plaintiffs did not observe any change in personnel or location of their offices or in their patients.

27. While employed by defendants, plaintiffs regularly worked more than 40 hours in a workweek. Plaintiffs also frequently worked a "spread of hours" or a shift longer than ten hours per day.

Plaintiff Gendri Castillo

28. Plaintiff Gendri Castillo (“Castillo”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Castillo worked for defendants as a home health care worker for approximately one year, beginning in or about May 2010. At the direction of the defendants, Castillo provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

29. During all times while working for the defendants, Castillo earned approximately \$8.00 per hour. Castillo has worked as many as 51 hours in a work week providing care to clients of the defendants. For those work hours in excess of 40 hours, Castillo was not paid the correct overtime premium by defendants. Rather, he was paid for all hours worked at his regular straight-time rate.

30. At times Castillo was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

Plaintiff Nilda Batiz

31. Plaintiff Nilda Batiz (“Batiz”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Batiz worked for defendants as a home health care worker for approximately two years and three months, beginning in or about January 2009. At the direction of the

defendants, she provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

32. During all times while working for the defendants, Batiz earned approximately \$8.00 per hour. Batiz has worked as many as 84 hours in a work week providing care to clients of the defendants. For those work hours in excess of 40 hours, Batiz was not paid the correct overtime premium by defendants. Rather, she was paid for all hours worked at her regular straight-time rate.

33. At times Batiz was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

Plaintiff Juliana Lali

34. Plaintiff Juliana Lali (“Lali”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Lali worked for defendants as a home health care worker for approximately two years and eight months, beginning in or around October 2008. At the direction of the defendants, she provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

35. During all times while working for the defendants, Lali earned approximately \$8.00 per hour. Lali has worked as many as 84 hours in a work week providing care to clients of the defendants. For those work hours in excess of 40 hours, Lali was not paid the correct overtime premium by defendants. Rather, she was paid for all hours worked at her regular straight-time rate.

36. At times Lali was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

Plaintiff Julia Mejia

37. Plaintiff Julia Mejia (“Julia Mejia”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Julia Mejia worked for defendants as a home health care worker for approximately two years and three months, beginning in or about March 2008. At the direction of the defendants, she provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

38. During all times while working for the defendants, Julia Mejia earned approximately \$8.00 per hour. For approximately the first seven months of her employment with defendants Julia Mejia worked shifts of 24-hours a day, seven days a week. For the remaining time she was employed by the defendants, she worked approximately seven days a week, five hours a day. For those work hours in excess of the statutory maximum, Julia Mejia was not paid the correct overtime premium by the defendants. Rather, she was paid for all hours worked at her regular straight-time rate.

39. At times Julia Mejia was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

Plaintiff Carina Castillo-Bermudez

40. Plaintiff Carina Castillo-Bermudez (“Castillo-Bermudez”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Castillo-Bermudez worked for defendants as a home health care worker for approximately two years, beginning in or about May 2009. At the direction of the defendants, she provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

41. During all times while working for the defendants, Castillo-Bermudez earned approximately \$8.00 per hour. Castillo-Bermudez has worked as many as 84 hours in a work week providing care to clients of the defendants. For those work hours in excess of 40 hours, Castillo-Bermudez was not paid the correct overtime premium by defendants. Rather, she was paid for all hours worked at her regular straight-time rate.

42. At times Castillo-Bermudez was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

Plaintiff Darlin Rivas

43. Plaintiff Darlin Rivas (“Rivas”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Rivas worked for defendants as a home health care worker for approximately two years and six months beginning in or about August 2008. At the direction of the defendants, she provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

44. During all times while working for the defendants, Rivas earned approximately \$8.00 per hour. Rivas has worked as many as 72 hours in a work week providing care to clients of the defendants. For those work hours in excess of 40 hours, Rivas was not paid the correct overtime premium by defendants. Rather, she was paid for all hours worked at her regular straight-time rate.

45. At times Rivas was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

Plaintiff Lilian Solano

46. Plaintiff Lilian Solano (“Solano”), a resident of Bronx County, is and was at all times relevant a home health care worker employed by defendants to work in and around the city of New York to provide personal home health care and assistance to disabled and elderly clients of the defendants. Solano worked for defendants as a home health care worker for approximately three years, beginning in or about 2008. At the direction of the defendants, she provided personal care and assistance to homebound clients based upon a schedule set and dictated by the defendants.

47. When she began working for the defendants, Solano earned approximately \$7.50 per hour, but her rate of pay increased at some point to \$8.00 an hour, and later, at some point in 2010, to \$8.25 an hour. For approximately the first three months, Solano worked 24-hour shifts, five or six days a week. For approximately the following five months she worked she worked approximately seven days a week, 10 hours a day. For the remainder of her employment with defendants she worked approximately seven days a week, 12 hours a day. Solano was not paid any overtime premium and/or the correct minimum wage for this work.

48. At times Solano was required to work a shift longer than ten hours without additional pay at the minimum wage as required by New York Labor Law and applicable regulations (Department of Labor Regulations [12 NYCRR] § 142-2.4 (a)).

49. At all times relevant, defendants were and continue to be required to establish, maintain and preserve for not less than six years, weekly payroll records that show for each employee, among other information, the number of hours worked daily and weekly including the time of arrival and departure of each employee working a split shift of spread of hours exceeding ten hours. NYLL §195 and 12 NYCRR §§ 142-2.6 (a)(4) and 142-2.18.

50. At all relevant times, plaintiffs and the class frequently worked and continue to work a “spread of hours” or a shift longer than ten hours per day but were not paid for an additional hour of work at the minimum wage as required by New York Labor Law and applicable regulations. 12 NYCRR §142-2.4(a).

51. As part of their duties as employees of defendants, plaintiffs are assigned to care for clients and performed services helping clients bathe, dress, eat, and perform other basic daily functions, and changing bed linens. In addition, some plaintiffs cleaned their clients’ homes, and did laundry and grocery shopping, and accompanied clients to medical appointments, and picked up prescriptions.

52. Defendants have the right to control and in fact do control the hours, hourly pay, assignments, and schedules of plaintiffs and the other class members. Defendants require plaintiffs and the other class members to record the identity of each client visited, the tasks performed for the client, and time spent with each client, and to submit those records to defendants regularly.

53. Plaintiffs and the other members of the class often were assigned to spend more than 40 hours in a given work week providing care to these home-bound clients. Defendants paid for direct-care work performed in excess of 40 hours per week at an employee's regular rate of pay. Defendants, as a matter of policy and practice, did not and continue not to pay plaintiffs and the class one and one half times the New York State minimum wage rate for work in excess of 40 hours in a work week.

54. Defendants, as a matter of policy and practice, failed and continue to fail to consistently provide plaintiffs with a statement concurrent with each payment of wages listing the number of regular hours worked per week as required by New York Labor Law.

55. Defendants, as a matter of policy and practice, failed and continue to fail to provide plaintiffs with a statement concurrent with each payment of wages listing the number of overtime hours worked per week and the overtime rate of pay each week as required by New York Law.

56. Defendants' actions, as alleged herein, were intentional and not made in good faith.

CLAIMS FOR RELIEF

COUNT I

New York Labor Law, Article 19: Unpaid Wages and Overtime Wages

57. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

58. During the class period, plaintiffs and members of the class were "employees" within the meaning of New York Labor Law §§ 190(2), 651(5) and 12 NYCRR § 142-2.14.

59. During the class period, defendants were employers within the meaning of New York Labor Law § 651(6).

60. Throughout the class period, defendants failed to pay plaintiffs and the class overtime wages of not less than one and one-half times the New York State minimum wage rate for each hour worked in excess of 40 hours in a workweek, in violation of the New York Labor Law, Article 19, § 650, *et seq.*, and 12 NYCRR § 142-2.2.

61. Due to defendants' violations of the New York Labor Law, plaintiffs and members of the class are entitled to recover from defendants all of the wages due them for hours worked at their regular rate of pay and unpaid overtime wages of not less than one and one-half times the New York State minimum wage rate for each hour worked in excess of 40 hours in a workweek, reasonable attorney's fees, costs, and pre- and post-judgment interest. Due to defendants' longstanding and ongoing violations of New York Labor Law and applicable regulations, plaintiffs also seek injunctive relief precluding defendants from continued violations of these laws and affirmatively mandating their compliance with the provisions of New York Labor Law.

COUNT II

New York Labor Law, Articles 6 and 19 – Spread of Hours Pay

62. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

63. During the class period, defendants failed to pay plaintiffs and the members of the class an additional hour's pay at the basic minimum hourly wage rate for every day that they worked a spread of hours that exceeded 10 hours or a shift in excess of 10 hours, in violation of New York Labor Law § 190, *et seq.*, and 650, *et seq.*, and 12 NYCRR § 142.

64. Due to defendants' violations of the New York Labor Law, plaintiffs and the members of the class are entitled to recover from defendants their unpaid wages, reasonable attorney's fees, costs, and pre- and post-judgment interest. In light of defendants' longstanding

and ongoing violations of New York Labor Law and applicable regulations, plaintiffs also seek injunctive relief precluding defendants from continued violations of these laws and affirmatively mandating their compliance with the provisions of the New York Labor Law.

COUNT III

New York Labor Law §§ 195 and 661; 12 NYCRR §142-2.6 Failure to Comply With Notification Requirements And To Maintain Records

65. Plaintiffs reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

66. New York Labor Law § 195 sets out notice and record keeping requirements governing employers in the State of New York. Employers are required to keep true and accurate records reflecting the employment of plaintiffs and members of the class. Prior to October 26, 2009, employers were required to notify their employees at the time of hiring of the rate of pay and the regular pay day designated by the employer. Effective October 26, 2009, upon information and belief, employers are required to notify employees in writing at the time of hiring of, *inter alia*, the rate of pay and, for employees who are eligible for overtime, the overtime rate of pay. To the extent that the class includes persons who were hired on or after October 26, 2009, defendants are in violation of the requirements of New York Labor Law § 195.

67. Pursuant to 12 NYCRR § 142-2.6, defendants are also required to establish, maintain and preserve for not less than six years, weekly payroll records which, *inter alia*, show for each employee: name and address; social security number; wage rate; the number of hours worked daily and weekly, including the time of arrival and departure of each employee working a split shift or spread of hours exceeding ten; the amount of gross wages; deductions from gross wages; allowances, if any, claimed as part of the minimum wage; and net wages

paid. By failing to maintain true, accurate and legible records for plaintiffs and each member of the class of the time worked on a daily and weekly basis and of their times of arrival at and departure from the homes of defendants' clients, defendants violated 12 NYCRR § 142-2.6.

68. In light of defendants' longstanding and ongoing violations of New York Labor Laws and applicable regulations, plaintiffs also seeks injunctive relief precluding defendants from continued violations of these laws and affirmatively mandating their compliance with the provisions of the New York Labor Law.

COUNT IV

New York Labor Law Section 195: Defendants' Failure to Provide Complete Written Statements Concurrent with the Payment of Wages

69. Plaintiffs reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

70. Pursuant to New York Labor Law Article 6 § 195(3), effective April 9, 2011, all employers are required to provide employees with a written statement concurrent with the payment of wages which lists, *inter alia*, the number of regular and overtime hours worked and the overtime rate of pay.

71. Defendants willfully and systematically failed to provide plaintiffs with written statements which listed the number of regular and overtime hours worked each week or the overtime rate of pay.

72. Accordingly, plaintiffs are entitled to recover from defendants damages pursuant to New York Labor Law Article 6 § 198.

73. Plaintiffs also seek injunctive relief precluding defendants from continued violations of these laws and affirmatively mandating their compliance with the provisions of New York Labor Law.

WHEREFORE, Plaintiffs, on behalf of themselves and the class, respectfully request that this Court grant the following relief:

A. Allow this action to proceed as a class action under CPLR Article 9 for all claims alleged, designate plaintiffs as the representatives of the class and the undersigned counsel as counsel for the class;

B. Enter judgment against defendants, jointly and severally, and in favor of plaintiffs and each member of the class, in the amount of their individual unpaid wages, actual and compensatory damages, and pre- and post judgment interest as allowed by law, and enjoin defendants from future violations;

D. Award plaintiffs the attorney's fees and costs incurred in this litigation;

E. Enjoin defendants to cease the practices found illegal or in violation of plaintiffs' and class members' rights, and

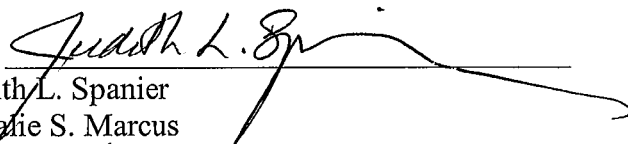
F. Grant plaintiffs such further relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury.

Dated: New York, New York
March 4, 2013

ABBHEY SPANIER, LLP

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