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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

MEI FANG LI and LI PING WANG,

*Plaintiffs,*

v.

RAINBOW GROUP INC. t/a RAINBOW BUFFET,  
CHUN MIN KWOK a/k/a JOHN KWOK a/k/a  
JIMMY KWOK, QIN T. ZHENG a/k/a YI TONG  
ZHENG, YUET I. LOH a/k/a JUDY LOH, JOHN  
DOE #1 a/k/a "ZHENG," JOHN DOE #2 a/k/a  
"RUSSKY," JOHN DOE #3 a/k/a "TITO," JOHN  
DOE #4 a/k/a "SUSHI MAN," and JOHN DOES  
#5-#6,

*Defendants.*

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

Civil Action No.:

**PRELIMINARY STATEMENT**

1. This action is brought on behalf of Plaintiffs Mei Fang Li ("Li") and Li Ping Wang ("Wang"), two women who were employed as waitresses by the Rainbow Group Inc. t/a Rainbow Buffet ("Rainbow Buffet"), located in Fairview, New Jersey. Defendant Rainbow Buffet paid Plaintiffs far less than the legal minimum wage during the tenures of their employment. Further, Rainbow Buffet's management and other employees, who are also

Defendants, committed, and tolerated the commission of, tortious acts against Plaintiffs during the course of their employment. As a result, Plaintiffs suffered substantial damages.

2. Specifically, Defendant Rainbow Buffet paid Plaintiffs each only \$120 per month in wages for nearly 300 monthly work hours (more than 60 hours per work week, on average). Rainbow Buffet did not pay Plaintiffs overtime wages. Rainbow Buffet also systematically confiscated portions of Plaintiffs' tips received from customers.

3. In addition, Rainbow Buffet employees committed assault and battery against Plaintiffs and subjected Plaintiffs to intentional infliction of emotional distress. The employees intentionally hit Plaintiffs, touched them against their will, made humiliating and menacing comments, and threatened them, all with the full knowledge and consent of Rainbow Buffet's management, who did nothing to stop the tortious acts.

4. Plaintiffs bring this action seeking remedies against Defendant Rainbow Buffet for violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, the New Jersey State Wage and Hour Law, N.J. Stat. Ann. § 34:11-56a *et seq.*, and the New Jersey Labor Law, N.J. Stat. Ann. § 34:11-4.1 *et seq.* Further, Plaintiffs bring claims against certain employees of Rainbow Buffet for assault and battery, and intentional infliction of emotional distress, and seek to hold the employer and its owners/managers liable for these tortious acts under the doctrine of *respondeat superior*.

5. Plaintiffs filed Charges of Discrimination with the Newark Area Office of the Equal Employment Opportunity Commission ("EEOC") on August 23, 2005. They intend to amend this Complaint to include claims for sexual harassment and constructive discharge under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and the New Jersey Law Against Discrimination, N.J. Stat. Ann. § 10:5.1 *et seq.*, once the EEOC completes its investigation, unless it resolves the dispute relating to those charges in a way that renders it unnecessary for Plaintiffs to seek redress from this Court.

## **JURISDICTION AND VENUE**

6. This Court has subject-matter jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. §§ 1331 and 1337. This Court has subject-matter jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. §§ 1332 and 1367.

7. Venue is proper in New Jersey pursuant to 28 U.S.C. § 1391(b) and (c), because a substantial part of the events or omissions giving rise to the claims occurred in this district, and all Defendants reside in this district.

## **PARTIES**

8. Plaintiff Mei Fang Li is an adult woman residing at 140-25 Ash Avenue, Apt. 3E, in Flushing, New York. Ms. Li worked at Rainbow Buffet from November 3, 2003 to August 20, 2004.

9. Plaintiff Li Ping Wang is an adult woman residing at 5422 7th Avenue, 3rd Floor, in Brooklyn, New York. Ms. Wang worked at Rainbow Buffet from December 4, 2003 to August 8, 2004.

10. On information and belief, Defendant Rainbow Buffet is a corporation doing business in the State of New Jersey, with a principal place of business at 127 Bergen Boulevard in Fairview, New Jersey.

11. On information and belief, Defendants Chun Min Kwok a/k/a John Kwok a/k/a Jimmy Kwok ("Kwok"), Qin T. Zheng a/k/a Yi Tong Zheng ("Qin Zheng"), Yuet I. Loh a/k/a Judy Loh ("Loh"), and John Doe #1 a/k/a Zheng ("John Doe Zheng") (collectively the "Management Defendants"), each with the business address of 127 Bergen Boulevard in Fairview, New Jersey, are the owners and managers of Rainbow Buffet and had knowledge of, committed, and permitted the actions, practices, and policies complained of herein.

12. On information and belief, Defendant Kwok resides at 200 Andover Mohawk Road in Andover, New Jersey; Defendant Qin Zheng resides at 8714 4th Avenue in North Bergen, New Jersey; and Defendant Loh resides at 9 Orchard Street in Newton, New Jersey.

The address of Defendant John Doe Zheng is not known to the Plaintiffs at this time. On information and belief, he is Defendant Qin Zheng's older brother.

13. On information and belief, Defendants John Doe #2 a/k/a "Russky," John Doe #3 a/k/a "Tito," John Doe #4 a/k/a "Sushi Man," and John Does #5-#6 (collectively the "Employee Defendants"), each with the business address of 127 Bergen Boulevard in Fairview, New Jersey, are employees of Rainbow Buffet and committed the actions and practices complained of herein. Defendants Russky and Tito were busboys at the restaurant. Defendant Sushi Man was the sushi chef. The other John Doe Employee Defendants were kitchen staff: John Doe #5 was a dishwasher and John Doe #6 was a "general helper" in the restaurant staff's terminology, that is, a kitchen jack-of-all-trades.

14. The true names and addresses of the Defendants sued herein as John Does are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious names. If necessary, Plaintiff will seek leave of Court to amend this Complaint to state the John Does' true names when they are ascertained.

## **WRONGFUL CONDUCT**

### **A. Defendant Rainbow Buffet Paid Plaintiffs Far Less Than the Applicable Minimum Wage**

15. Ms. Li and Ms. Wang worked as waitresses at Rainbow Buffet from late 2003 until August 2004. Their duties included serving food and drink to customers, some food preparation, and performing certain cleaning duties.

16. Ms. Li and Ms. Wang generally worked on three-week cycles. For the first two weeks of such a cycle, they worked six days per week, and during the third week of the cycle they worked five days per week. Their work hours, generally, were from about 10:30 AM to between 10:00 PM and 11:00 PM, on Sundays through Thursdays, and from about 10:30 AM to between 11:30 PM and 1:00 AM on Fridays and Saturdays. About once a month, they were required to stay until approximately 2:00 AM to polish the restaurant's metal fixtures.

17. Management Defendants generally told Ms. Li and Ms. Wang that they would have three fifteen-minute breaks during the twelve-hour or more workday to eat and rest. However, they rarely were able to take these breaks in full, as Management Defendants typically instructed them to resume work prior to finishing their breaks.

18. Defendant Rainbow Buffet paid Ms. Li and Ms. Wang about \$120 per month in wages. It paid Ms. Wang in cash (generally \$121 per month) and paid Ms. Li with paychecks.

19. The paychecks given by Defendant Rainbow Buffet to Ms. Li (and signed by Defendant Qin Zheng) generally falsely stated that she worked only 21 hours per week, approximately one-third of the more than 60 hours per week she actually worked. Moreover, these paychecks remunerated Ms. Li at \$2.35 per hour for the small portion of her work hours they purported to acknowledge, less than half of the applicable minimum hourly wage. Furthermore, when even this deliberate undercounting and undervaluing of Ms. Li's work yielded more than \$120 in paycheck wages in one month, Defendant Rainbow Buffet and Management Defendants insisted that Li surrender a portion of her tips received from customers in supposed "reimbursement" for a portion of her wages so that her actual wages would not exceed \$120 (and were sometimes even lower).

20. In addition, Defendant Rainbow Buffet and Management Defendants insisted that Ms. Li and Ms. Wang regularly surrender to the restaurant additional portions of their tips received from customers. Defendants calculated these regular kickbacks based on the following formula: For every dinner customer on each night and every lunch customer on Sundays, Plaintiffs were made to pay \$0.20 to the restaurant; for every lunch customer on Saturdays, Plaintiffs paid \$0.15 to the restaurant, and for every lunch customer on weekdays, Plaintiffs paid \$0.10 to the restaurant. The remaining tips were divided equally among the wait staff.

21. Management Defendants determined the amount of kickbacks according to the calculations of the restaurant's cashier. On at least one occasion, Ms. Wang witnessed the cashier artificially inflating the number of customers served during a shift, in order to increase

the required kickback. Ms. Wang reported this to Defendant Loh, who did nothing but make a disapproving face that suggested to Ms. Wang that she should not pursue the matter further.

22. Rainbow Buffet and Management Defendants also required Ms. Li and Ms. Wang to pay for their work uniforms, which consisted of a shirt, an apron and a hat at a cost of about \$35.

23. Although both federal and New Jersey law permit an employer to pay employees less than the standard minimum wage if employees receive gratuities from customers, paying wages below the standard minimum is permissible only if, among other requirements, the employer specifically and explicitly informs the employee that it will be claiming the “tip credit.” At no time did Rainbow Buffet or Management Defendants ever inform Ms. Li or Ms. Wang that Rainbow Buffet would claim the “tip credit.”

**B. Defendants Subjected Plaintiffs to Tortious Acts During the Course of Their Employment**

24. Throughout Ms. Li and Ms. Wang’s employment at Rainbow Buffet, Employee Defendants hit them, touched them against their will, and made humiliating and menacing comments about physical and sexual matters. These tortious acts caused Ms. Li and Ms. Wang physical and emotional pain and extreme embarrassment and fear. The acts occurred so frequently that Ms. Li and Ms. Wang came to fear any interaction with Employee Defendants at all, as such interaction was likely to involve an assault, battery, or verbal attack of some kind.

25. For purposes of illustration, Ms. Li suffered the following tortious acts:

a. The busboys (Defendants Russky and Tito) often made humiliating and menacing comments to Ms. Li about physical or sexual matters. For example, they said Ms. Li’s breasts were too “small” or not “attractive.” In addition, when Ms. Li was sweeping or leaning over in the course of her work, they often would approach her to look down her shirt and make leering comments to the effect of “you shouldn’t be in that position—I can see everything.”

b. Occasionally, the busboys made comments about Ms. Li’s breasts in the presence of other employees of Rainbow Buffet. Ms. Wang once overheard such a disparaging

comment—while several of the wait staff were eating Chinese fish-ball soup, one of the busboys skewered a fish-ball with a large chopstick, held it up, and said that it was the same size as one of Ms. Li’s breasts.

c. The busboys also used a Cantonese phrase they learned from Teresa Loh, Defendant Loh’s niece, that translated roughly into “front and back.” They used the phrase as slang to refer to Ms. Li and Ms. Wang as “breasts and ass.”

d. On one occasion, when Ms. Li was kneeling down to pick up a napkin, Defendant Tito came over and looked down her shirt. He lunged toward her, but she pushed him away. He then tried to grab her breast, but she moved, and his hand struck her between the breast and shoulder.

e. On another occasion, Ms. Li was changing clothes in the women’s restroom at the restaurant. Without knocking, Defendant Tito entered the restroom to clean it (typically, both busboys would enter the women’s restroom without knocking when customers were no longer present.) As he knelt to lay down the bath rug, he approached her leg with his face, almost touching her leg, and said something to the effect of “you’re very beautiful” in a suggestive manner.

f. On another occasion, Defendant Tito startled Ms. Li by sneaking up behind her and touching her hair. When Ms. Li moved away, he said she had “beautiful” hair.

g. Often, Defendant Russky made comments about his penis in front of the staff, including Ms. Li, sometimes accompanied by graphic gestures. These comments, like the others about her breasts, made Ms. Li feel extremely humiliated and menaced.

h. When Ms. Li would go into the restaurant’s downstairs kitchen, Defendant Sushi Man would shout something to the effect of: “Is this one pretty?” or “She’s very pretty” and ask each other loudly “Do you want her?”. The response from Defendant John Does #5-#6 was always something along the lines of “Yes,” “I want,” or “why not?,” followed by raucous laughter. Ms. Li understood their statements to convey a desire to engage in sexual relations with her.

i. The assaults, batteries, and rude and menacing comments described above made Ms. Li feel extremely humiliated, menaced, and frightened. She reported the tortious acts to Management Defendants. The busboys began to hit Ms. Li intentionally with their carts and mops when they would pass her in the restaurant, and on information and belief this began once they learned that Ms. Li was reporting their acts to the Management Defendants (albeit to no avail). The busboys' assaults and batteries resulted in additional physical and emotional pain and fear.

j. The hitting culminated on Ms. Li's last day of work. She was pouring drinks at the restaurant's soda machine while Defendant Tito was carrying two heavy buckets of ice. He came up behind her and intentionally knocked her elbows with the ice buckets, inflicting excruciating pain. Ms. Li began to cry and immediately reported the incident to Defendant Loh. Ms. Li did not hear what transpired next between Defendants Loh and Tito, if anything, because she went into the restroom. However, when Ms. Li came out, Defendants Tito and Russky were mocking her and imitating her crying.

k. Ms. Li resigned later that day and subsequently filed a report regarding the incident with the Fairview Police Department.

26. For purposes of illustration, Ms. Wang suffered the following similar tortious acts:

a. The busboys (Defendants Russky and Tito) often made humiliating and menacing comments to Ms. Wang about physical or sexual matters. For example, they would say something to the effect of: "If you want a wife, find one like Li Ping—she's so fat." In addition, they frequently made comments, occasionally in front of other employees, about Ms. Wang's breasts, to the effect that they were large. Defendant Tito also would gesture with his hand, point to his head and chest and then to Ms. Wang, and say something along the lines of "Sleep here, very nice," which Ms. Wang understood to mean that he would like to sleep with his head on her chest.



b. On one occasion, Defendant Tito asked Ms. Wang, how many times per night she did “it” with her husband, referring to sexual relations.

c. On another occasion, Defendant Russky proclaimed, in front of Ms. Wang, that his penis was so “big” and that he can do “it” many times per night, also referring to sexual relations. He often made other, similar, comments regarding his supposed sexual prowess.

d. As mentioned above, the busboys also used a Cantonese phrase as slang to refer to Ms. Li and Ms. Wang as “breasts and ass.”

e. Although Defendant Tito knew Ms. Wang was married, he frequently referred to her as his wife. He occasionally made such comments in front of other employees. On one occasion, Ms. Wang was pouring drinks at the restaurant’s soda machine. Defendant Tito came up behind her, put his arm around her, leaned his head on her shoulder, and said she was his “wife.” When she pushed him away, he insisted that later, he would kiss her.

f. The busboys also frequently touched Ms. Wang’s back and shoulders in a menacing way when they walked by her. At the same times, they would give her dirty looks.

g. Similar to the experiences suffered by Ms. Li, when Ms. Wang went to the downstairs kitchen, Defendant Sushi Man would shout something to the effect of: “Is this one pretty?” or “She’s very pretty” and ask each other loudly “Do you want her?”. The response from Defendant John Does #5-#6 was always something along the lines of “Yes,” “I want,” or “why not?,” followed by raucous laughter. Ms. Wang understood their statements to convey a desire to engage in sexual relations with her.

h. The assaults, batteries, and rude and menacing comments described above made Ms. Wang feel extremely humiliated, embarrassed, and frightened. She reported the tortious acts to Management Defendants. The busboys began to hit Ms. Wang intentionally with their carts and mops when they would pass her in the restaurant, and on information and belief this began once they learned that Ms. Wang was reporting their acts to the Management

Defendants (albeit to no avail). The busboys' assaults and batteries resulted in additional physical and emotional pain and fear.

i. After suffering through months of Employee Defendants' tortious conduct, with no end in sight, Ms. Wang finally could no longer tolerate the physical and emotional pain associated with working at the restaurant. She resigned on August 8, 2004.

27. The acts described above with respect to Ms. Li and Ms. Wang are merely examples of Employee Defendants' regular and unlawful tortious conduct. They are not intended to be an exhaustive account.

28. Defendant Rainbow Buffet and Management Defendants were aware of these tortious acts committed by Employee Defendants. In certain instances, Management Defendants witnessed the conduct first hand.

29. On a number of occasions, Plaintiffs informed one or more of the Management Defendants, or observed another employee informing them, of a tortious incident that had just occurred. Management Defendants, however, never took any steps to reprimand the offending employees for their tortious conduct. Rather, on several occasions, Management Defendants suggested that the incidents were the fault of Plaintiffs for supposedly provoking Employee Defendants. On other occasions, Management Defendants responded by simply smiling or laughing.

**FIRST CLAIM FOR RELIEF:  
FAIR LABOR STANDARDS ACT  
(Defendant Rainbow Buffet and Management Defendants)**

30. The allegations in paragraphs 1 through 29 are repeated as if fully stated herein.

31. Plaintiffs hereby consent in writing to be parties in this action, pursuant to 29 U.S.C. § 216(b).

32. Defendants willfully refused to pay Plaintiffs the required minimum wage in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 206(a)(1) and 203(m).

33. Defendants willfully refused to pay Plaintiffs overtime compensation at rates not less than one and one-half times the regularly paid wages or minimum rate of pay for each hour

worked in excess of forty hours per workweek, in violation of 29 U.S.C. §§ 207(a)(2) and 203(m).

34. Defendants required Plaintiffs to purchase their work uniforms, without reimbursing them for the cost, in violation of 29 C.F.R. § 531.3(d).

35. Defendants’ willful violations of the Fair Labor Standards Act entitle Plaintiffs to recovery for their unpaid minimum wages, unpaid overtime compensation, an equivalent amount as liquidated damages, cost of uniforms, and reasonable attorneys’ fees and costs of the action, pursuant to 29 U.S.C. § 216(b).

**SECOND CLAIM FOR RELIEF:  
NEW JERSEY STATE WAGE AND HOUR LAW  
(Defendant Rainbow Buffet and Management Defendants)**

36. The allegations in paragraphs 1 through 35 are repeated as if fully stated herein.

37. Defendants intentionally refused to pay Plaintiffs the required minimum wage in violation of the New Jersey State Wage and Hour Law, N.J. Stat. Ann. § 34:11-56a4.

38. Defendants intentionally refused to pay Plaintiffs overtime wages at one and one-half times the regularly paid wages or minimum wage, in violation of N.J. Stat. Ann. § 34:11-56a4 and N.J. Admin. Code § 12:56-14.3.

39. Defendants required Plaintiffs to purchase their work uniforms, without reimbursing them for the cost, in violation of N.J. Admin. Code § 12:56-17.1(d)-(e).

40. Defendants’ willful violations of the New Jersey State Wage and Hour Law entitle Plaintiffs to recover their unpaid minimum wages, unpaid overtime compensation, cost of uniforms, and reasonable attorneys’ fees and costs, pursuant to N.J. Stat. Ann. § 34:11-56a25.

**THIRD CLAIM FOR RELIEF:  
NEW JERSEY LABOR LAW  
(Defendant Rainbow Buffet)**

41. The allegations in paragraphs 1 through 40 are repeated as if fully stated herein.

42. Defendants willfully diverted tips that were due to Plaintiffs for the use of Defendants, in violation of N.J. Stat. Ann. § 34:11-4.14(a).

43. Defendants willfully withheld and diverted Plaintiffs' wages, in violation of N.J. Stat. Ann. § 34:11-4.4.

44. Defendants' willful violations of the New Jersey prohibitions against diversion and withholding of wages and tips entitle Plaintiffs to the wages and tips that were diverted to and withheld by Defendants, pursuant to N.J. Stat. Ann. § 34:11-4.14(b).

**FOURTH CLAIM FOR RELIEF:  
ASSAULT AND BATTERY  
(Defendant Rainbow Buffet, Management Defendants, and Employee Defendants)**

45. The allegations in paragraphs 1 through 44 are repeated as if fully stated herein.

46. Employee Defendants committed assault and battery by hitting the Plaintiffs, touching them against their will, and threatening to hit them or touch them against their will.

47. As a direct and proximate result of the assault and battery, Plaintiffs suffered substantial physical and emotional injuries.

48. Employee Defendants committed the aforementioned tortious acts within the scope of their employment at Rainbow Buffet.

49. Because Management Defendants actually knew of Employee Defendants' tortious conduct toward Plaintiffs and did nothing to stop it, despite having the ability and responsibility to do so, Defendant Rainbow Buffet and Management Defendants are vicariously liable for the Employee Defendants' acts.

**FIFTH CLAIM FOR RELIEF:  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
(Defendant Rainbow Buffet, Management Defendants, and Employee Defendants)**

50. The allegations in paragraphs 1 through 49 are repeated as if fully stated herein.

51. Employee Defendants intentionally inflicted emotional distress on Plaintiffs by hitting them, touching them against their will, and threatening to hit them or touch them against their will, all in an outrageous manner, which resulted in substantial physical and emotional injuries to the Plaintiffs.

52. Employee Defendants committed the aforementioned tortious acts within the scope of their employment at Rainbow Buffet.

53. Because Management Defendants knew of Employee Defendants' tortious conduct toward Plaintiffs and did nothing to stop it, despite having the ability and responsibility to do so, Defendant Rainbow Buffet and Management Defendants are vicariously liable for Employee Defendants' acts.

## **PRAYER FOR RELIEF**

Wherefore, Plaintiffs respectfully request that this Court grant the following relief:

- A. Declare that Defendant Rainbow Buffet has violated federal and New Jersey minimum wage and overtime laws by paying Plaintiffs below the applicable minimum wage;
- B. Declare that Defendant Rainbow Buffet has violated New Jersey law prohibitions against diverting and withholding Plaintiffs' tips;
- C. Declare that Employee Defendants committed assault and battery against Plaintiffs;
- D. Declare that Employee Defendants intentionally inflicted emotional distress on Plaintiffs;
- E. Declare that Defendant Rainbow Buffet and Management Defendants are vicariously liable for the tortious acts of Employee Defendants;
- F. Award compensatory damages to Plaintiffs in an amount to be proven at trial;
- G. Award liquidated damages to Plaintiffs in an amount to be proven at trial;
- H. Award punitive damages to Plaintiffs in an amount to be proven at trial;
- I. Order Defendants to pay reasonable attorneys' fees and costs; and
- J. Grant such other and further relief as this Court deems just and proper under the circumstances.

October 31, 2005

Respectfully submitted,

s/ Edward L. Barocas  
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## **JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a trial by jury as to all issues.

October 31, 2005

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## CERTIFICATION UNDER LOCAL CIVIL RULE 11.2

Pursuant to Local Civil Rule 11.2, Plaintiffs certify that this matter is not the subject of any action pending in any other court, or any arbitration. However, the Newark Area Office of the United States Equal Employment Opportunity Commission is currently undertaking an investigation of a closely related matter, to determine whether Defendants sexually harassed and constructively discharged Plaintiffs, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and the New Jersey Law Against Discrimination, N.J. Stat. Ann. § 10:5.1 *et seq.* The administrative identifiers for these investigations are: *Li v. Rainbow Buffet Restaurant*, Charge No. 171-2005-00743, and *Wang v. Rainbow Buffet Restaurant*, Charge No. 171-2005-00742.

October 31, 2005

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