SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

KATRINE GRANT and NATALIYA KONYEVA, on behalf of themselves and all others similarly situated,	**Index No.:**
Plaintiffs,	**SUMMONS** Date Filed: March 5, 2015
-against-	Plaintiffs designate Nassau County as the Place of trial.
JAY-JAY CABARET, INC.,	
Defendant.	Basis of venue is Plaintiff's residence

To the above named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on Plaintiffs' attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty [30] days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of failure to appear or answer, judgment will be taken against you by default of the relief demanded in the Complaint.

Dated: New York, New York
March 5, 2015

Yours, etc.,

Brian S. Schaffer

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Attorneys for Plaintiffs and the Putative Class

Defendant's Addresses:

JAY-JAY CABARET, INC.
1674 Broadway
New York, New York 10019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

KATRINE GRANT and NATALIYA KONYEVA, on behalf of themselves and all others similarly situated, Plaintiffs, -against- JAY-JAY CABARET, INC., Defendant.	**Index No.:** **CLASS ACTION COMPLAINT**

Plaintiffs Katrine Grant and Nataliya Konyeva (collectively, "Plaintiffs"), individually and on behalf of themselves and all others similarly situated, by their attorneys, Fitapelli & Schaffer, LLP and Outten & Golden LLP, for their Class Action Complaint against Defendant Jay-Jay Cabaret, Inc. ("Defendant"), allege, upon personal knowledge as to themselves, and upon information and belief as to other matters, as follows:

NATURE OF THE ACTION

1. This case is about the workplace rights of entertainers (dancers) at Jay-Jay Cabaret, Inc. ("Defendant"), an adult club located at 1674 Broadway in New York City.

2. Adult entertainers in New York City, including Plaintiffs and their former co-workers, work in an "unorganized" industry where many workers are "disenfranchised" by the wide disparities in bargaining power between workers and club owners. *See* Holly Wilmet, *Naked Feminism: The Unionization of the Adult Entertainment Industry*, 7 Am. U, J. Gender Soc. Pol'y & L. 465, 466 (1999); *see also* Margot Rutman, *Symposium: Exotic Dancers Employment Law Regulations*, 8 Temp. Pol. & Civ. Rts. L. Rev, 515, 527-28 (Spring 1999); Carrie Benson Fischer, *Employee Rights in Sex Work: The Struggle for Dancers' Rights as Employees*, 14 L, & Ineq. J. 521 (June 1996).

3. Accordingly, adult clubs such as Defendant are well-positioned to take advantage of entertainers and deny them basic workplace rights.

4. Over the years, entertainers at adult clubs like Defendant have made some strides by winning recognition as employees and otherwise protecting their workplace rights, including in cases prosecuted by the United States Department of Labor. *See, e.g., Reich v. Circle C Invs.*, 998 F.2d 324, 326-29 (5th Cir. 1993) (upholding trial court's determination that adult club dancers are entitled to minimum wage and overtime, and restraining club from continuing to withhold back wages); *Hart v. Rick's Cabaret Int'l, Inc.*, 967 F. Supp. 2d 901 (S.D.N.Y. 2013) (granting summary judgment to a certified class/collective of dancers at a New York City adult club with respect to the dancers' minimum wage and unlawful deductions claims); *In re Penthouse Executive Club Comp. Litig.*, Master File No. 10 Civ. 1145, 2013 WL 1828598, at *3-5 (S.D.N.Y. Apr. 30, 2013) (conditionally certifying Rule 23 settlement class of entertainers at New York City adult night club and authorizing the distribution of settlement notice to class members); *Diaz v. Scores Holding Co.*, No. 07 Civ. 8718, 2008 WL 7863502, at *4-5 (S.D.N.Y. May 9, 2008) (conditionally certifying Fair Labor Standards Act collective of entertainers and other workers at New York City adult night club and authorizing notice to putative members of the collective); *Whiting v. W & R Corp.*, No. 2:03-0509, 2005 U.S. Dist. LEXIS 34008, at *6-9 (S.D. W.Va. Apr. 18, 2005) (denying defendant's motion for summary judgment in wage and hour case brought by dancer at exotic dance club); *Harrell v. Diamond A Entm't, Inc.*, 992 F. Supp. 1343, 1347-54 (M.D. Fla. 1997) (denying defendants' motion to dismiss dancer's action to recover minimum wages); *Reich v. Priba Corp.*, 890 F.Supp. 586, 594 (N.D. Tex. 1995) (finding after bench trial, in case brought by the Department of Labor, that adult night club violated the Fair Labor Standards Act by, *inter alia*, failing to pay dancers minimum wage and requiring entertainers to provide their own unfirms,);

Donovan v. Tavern Talent & Placements, Inc., Civ. No. 84-F-401, 1986 U.S. Dist. LEXIS 30955, at *6-7 (D. Colo. Jan. 8, 1986) (holding that night club operators violated dancers' rights as tipped employees); *Smith v. Tyad, Inc.*, 209 P.3d 228, 231-34 (Mont. 2009) (upholding agency's authority to deem deduction of "stage fees" unlawful requiring reimbursement).

5. In fact, on October 6, 2014, a Southern District court granted preliminary approval of a settlement in a wage and hour lawsuit brought by dancers against New York Dolls Gentlemen's Club and Private Eyes Gentlemen's Club – Defendant's self-proclaimed "sister clubs." *Flynn v. New York Dolls Gentlemen's Club*, No. 13 Civ. 6530, 2014 WL 4980380 (S.D.N.Y. Oct. 6, 2014).

6. Nevertheless, the adult entertainment industry in New York City and elsewhere remains largely out of compliance with basic worker protection statutes.

7. Defendant, a popular New York City adult club, is no exception. Despite classifying dancers as employees, Defendant deprives them of their rights under New York State wage and hour laws, including their right to be paid minimum wages, their right to be paid overtime compensation, their right to be paid spread-of-hours pay, their right to keep customer gratuities they earn, their right to work without paying "house fees," and their right to be reimbursed for uniform-related expenses. In fact, entertainers at Defendant do not receive any hourly wages whatsoever.

8. This is not the first time that Defendant and/or its "sister clubs" (collectively, the "Clubs") have been the subject of lawsuits seeking to enforce entertainers' rights to recover lawfully earned wages. *See Flynn v. New York Dolls Gentlemen's Club et al*, No. 13 Civ. 6530 (S.D.N.Y. filed Sept. 17, 2013); *Han v. Jay-Jay Cabaret, Inc. et al*, No. 11 Civ. 2072 (S.D.N.Y. filed Mar. 25, 2011); *Naraine v. AAM Holding Corp. et al,* No. 10 Civ. 8614 (S.D.N.Y. filed Nov. 15, 2010). Consequently, Defendant has been on notice of the illegality of its compensation practices since at least November 15, 2010.

9. This lawsuit seeks to force Defendant to grant entertainers the basic rights of employees under New York State and Federal law, and correspondingly pay entertainers all of the wages they earn and allow them to keep all of the tips they receive.

10. In the "About" section of its website, www.flashdancersnyc.com, Defendant attributes its success to "over 350 red hot entertainers, from all six continents, competing to be your IT girl." Defendant, however, appears not to appreciate the workers who allow them to make such boasts.

11. Defendant fails to pay entertainers the statutory minimum hourly wage, premium overtime compensation for all hours they work in excess of 40 hours per workweek, and spread-of-hours pay when the length of their workday is greater than 10 hours.

12. Defendant collects unlawful house fees from entertainers for each shift that they work. Defendant also requires entertainers to pay a fee/fine if they are late or if they are unable to work a scheduled shift.

13. Defendant prohibits entertainers from keeping all of the tips that they earn, by requiring entertainers to share their tips with workers who do not provide customer service, such as "House Moms," DJs, and private room hostesses.

14. Defendant encourages customers to tip entertainers using club scrip called "Dance Dollars," which customers purchase from the club, to use instead of cash. When an entertainer receives a tip from a customer in Dance Dollars, Defendant deducts and retains a portion of the tip when the entertainer exchanges the Dance Dollars for cash. Consequently, customers who believe they are tipping entertainers a certain amount are actually tipping them less.

15. Defendant requires entertainers to purchase club-approved uniforms, and does not reimburse them for the cost of the uniforms or for their maintenance and upkeep.

16. Plaintiffs bring this action on behalf of themselves and all other similarly situated current and former entertainers at Defendant to remedy violations of the New York Labor Law ("NYLL"), Article 6, §§ 190 *et seq.*, and Article 19, §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations.

17. Plaintiffs also bring this action on behalf of themselves and all similarly situated current and former entertainers at Defendant who elect to opt-in to this action pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201 *et seq.*, and specifically, the collective action provision of 29 U.S.C. § 216(b), to remedy violations of the wage-and-hour provisions of the FLSA by Defendant that have deprived Plaintiffs and other similarly situated employees of their lawfully earned wages.

JURISDICTION AND VENUE

18. The Court has jurisdiction over this matter pursuant to NYLL, Article 6, §§ 190 *et seq.* and Article 19, §§ 650. This Court has jurisdiction over the parties pursuant to New York Civil Practice Law and Rules ("CPLR") § 503(c) because Class Members reside in Nassau County.

THE PARTIES

Plaintiffs

Katrine Grant

19. Katrine Grant ("Grant") is an adult individual who is a resident of Brooklyn, New York.

20. Grant was employed by Defendant as an entertainer from in or around April 2009 to April 2010.

21. Grant is a covered employee within the meaning of the NYLL and FLSA.

Nataliya Konyeva

22. Nataliya Konyeva ("Konyeva") is an adult individual who is a resident of New York, New York.

23. Konyeva was employed by Defendant as an entertainer from in or around April 2009 to April 2010.

24. Konyeva is a covered employee within the meaning of the NYLL and FLSA.

Defendant

Jay-Jay Cabaret, Inc.

25. Defendant has owned and/or operated Flashdancers Gentlemen's Club ("Flashdancers") during the relevant period.

26. Defendant is a domestic business corporation organized and existing under the laws of New York.

27. Upon information and belief, Defendant's principal executive office is located at 1674 Broadway, New York, New York 10019, the address of Flashdancers.

28. Defendant is the corporate entity that appeared on Plaintiffs' IRS form W-2, for work performed at Flashdancers.

29. "JAY JAY CABARET INC" is the "Premises Name" that appears on the New York State Liquor Authority license for the premises doing business as "FLASHDANCERS," located at "1674 BROADWAY, NEW YORK, NY 10019."

30. Defendant is a covered employer within the meaning of the NYLL and FLSA, and, at all times relevant, employed Plaintiffs and similarly situated employees.

31. At all relevant times, Defendant has maintained control, oversight, and direction over Plaintiffs and similarly situated employees, including timekeeping, payroll and other employment practices that applied to them.

32. Defendant has applied the same employment policies, practices, and procedures to all entertainers, including policies, practices, and procedures with respect to payment of minimum wage, overtime compensation, spread-of-hours pay, customer tips, and uniform-related expenses, and the making of unlawful deductions.

33. Upon information and belief, at all relevant times Defendant's annual gross volume of sales made or business done was not less than $500,000.

CLASS ACTION ALLEGATIONS

34. Pursuant to Article 9 of the CPLR, Plaintiffs bring this class action on behalf of themselves and a class of persons consisting of:

> All persons who work or have worked as entertainers/dancers at Flashdancers in New York between December 9, 2008 and the date of final judgment in this matter who have not signed arbitration agreements with Defendant (the "Class").

35. Excluded from the Class are Defendant, Defendant's legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class period has had, a controlling interest in Defendant; the Judge(s) to whom this case is assigned and any member of the Judges' immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the Class.

36. The members of the Class are so numerous that joinder of all members is impracticable. Upon information and belief, the size of the Class is at least 100 individuals. Although the precise number of such employees is unknown, the proposed Class is ascertainable in that its members can be identified and located using information contained in Defendant's payroll and personnel records.

37. Defendant has acted or has refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

38. Common questions of law and fact exist as to the Class that predominate over any questions only affecting them individually and include, but are not limited to, the following:

(a) whether Defendant violated NYLL Articles 6 and 19, and the supporting New York State Department of Labor Regulations;

(b) whether Defendant failed to pay Plaintiffs and the Class minimum wages for all of the hours they worked;

(c) whether Defendant correctly compensated Plaintiffs and the Class for hours worked in excess of 40 hours per workweek;

(d) whether Defendant failed to provide Plaintiffs and the Class with spread-of-hours pay when the length of their workday was greater than 10 hours;

(e) whether Defendant misappropriated tips from Plaintiffs and the Class by demanding, handling, pooling, counting, distributing, accepting, and/or retaining tips paid by customers that were intended for Plaintiffs and the Class, and which customers reasonably believed to be gratuities for Plaintiffs and the Class;

(f) whether Defendant distributed or retained a portion of the tips paid by customers to workers who are not entitled to receive tips under the NYLL;

(g) whether Defendant made unlawful deductions from the wages of Plaintiffs and the Class, including, but not limited to, deductions for house fees, late fees, missed work fees, Dance Dollar cash out fees, and mandatory tip outs, in violation of the NYLL;

(h) whether Defendant failed to reimburse Plaintiffs and the Class for uniform-related expenses in violation of the NYLL;

(i) whether Defendant failed to keep true and accurate time and pay records for all hours worked by Plaintiffs and the Class, and other records required by the NYLL; and

(j) whether Defendant failed to furnish Plaintiffs and the Class with proper annual wage notices, as required by the NYLL;

(k) whether Defendant failed to furnish Plaintiffs and the Class with proper statements with every payment of wages, as required by the NYLL;

(l) whether Defendant's policy of failing to pay Plaintiffs and the Class was instituted willfully or with reckless disregard of the law;

(m) the nature and extent of class-wide injury and the measure of damages for those injuries.

39. The claims of Plaintiffs are typical of the claims of the Class they seek to represent. Plaintiffs and all members of the Class work, or have worked, for Defendant as entertainers at Flashdancers in New York. Plaintiffs and the members of the Class enjoy the same statutory rights under the NYLL, including to be properly compensated for all hours worked, to be paid spread-of-hours pay, to retain customer tips, to not have unlawful deductions made from their wages, and to be reimbursed for uniform-related expenses. Plaintiffs and the members of the Class have all sustained similar types of damages as a result of Defendant's failure to comply with the NYLL. Plaintiffs and the members of the Class have all been injured in that they have been uncompensated or under-compensated due to Defendant's common policies, practices, and patterns of conduct.

40. Plaintiffs will fairly and adequately represent and protect the interests of the members of the Class. Plaintiffs understand that as class representatives, they assume a fiduciary responsibility to the class to represent its interests fairly and adequately. Plaintiffs recognize that as class representatives, they must represent and consider the interests of the Class just as they would represent and consider their own interests. Plaintiffs understand that in decisions regarding the conduct of the litigation and its possible settlement, they must not favor their own interests over the Class. Plaintiffs recognize that any resolution of a class action must be in the best interest of the Class. Plaintiffs understand that in order to provide adequate representation, they must be informed of developments in litigation, cooperate with class counsel, and testify at deposition and/or trial. Plaintiffs have retained counsel competent and experienced in complex class actions and employment litigation. There is no conflict between Plaintiffs and the members of the Class.

41. In recognition of the services Plaintiffs have rendered and will continue to render to the Class, Plaintiffs will request payment of service awards upon resolution of this action.

42. A class action is superior to other available methods for the fair and efficient adjudication of this litigation. The members of the Class have been damaged and are entitled to recovery as a result of Defendant's violations of the NYLL, as well as their common and uniform policies, practices, and procedures. Although the relative damages suffered by individual members of the Class are not *de minimis*, such damages are small compared to the expense and burden of individual prosecution of this litigation. The individual Plaintiffs lack the financial resources to conduct a thorough examination of Defendant's timekeeping and compensation practices and to prosecute vigorously a lawsuit against Defendant to recover such damages. In addition, class litigation is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendant's practices.

COLLECTIVE ACTION ALLEGATIONS

43. Plaintiffs brings the Ninth and Tenth Causes of Action, FLSA claims, on behalf of themselves and all similarly situated persons who work or have worked as entertainers/dancers at Flashdancers in New York who have not signed arbitration agreements with Defendant, who elect to opt-in to this action (the "FLSA Collective").

44. Defendant is liable under the FLSA for, *inter alia*, failing to properly compensate Plaintiffs and the FLSA Collective.

45. Consistent with Defendant's policy and pattern or practice, Plaintiffs and the FLSA Collective were not paid the minimum wage for all hours worked or the appropriate overtime compensation for all hours worked beyond 40 per workweek.

46. All of the work that Plaintiffs and the FLSA Collective have performed has been assigned by Defendant, and/or Defendant has been aware of all of the work that Plaintiffs and the FLSA Collective have performed.

47. As part of its regular business practice, Defendant has intentionally, willfully, and repeatedly engaged in a pattern, practice, and/or policy of violating the FLSA with respect to Plaintiffs and the FLSA Collective. This policy and pattern or practice includes, but is not limited to:

(a) willfully failing to pay its employees, including Plaintiffs and the FLSA Collective, minimum wages for all hours worked and the appropriate overtime wages for all hours worked in excess of 40 hours in a workweek; and

(b) willfully failing to record all of the time that its employees, including Plaintiffs and the FLSA Collective, have worked for the benefit of Defendant.

48. Defendant's unlawful conduct, as described in this Complaint, is pursuant to a corporate policy or practice of minimizing labor costs by failing to properly compensate Plaintiff and the FLSA Collective for the hours they work.

49. Defendant is aware or should have been aware that federal law required it to pay Plaintiffs and the FLSA Collective minimum wage for all of the hours they worked and overtime premiums for hours worked in excess of 40 hours per week.

50. Plaintiffs and the FLSA Collective perform or performed the same primary duties.

51. Defendant's unlawful conduct has been widespread, repeated, and consistent.

52. There are many similarly situated current and former tipped workers who have been denied minimum wage and overtime compensation in violation of the FLSA who would benefit from the issuance of a court-supervised notice of this lawsuit and the opportunity to join it. This notice should be sent to the FLSA Collective pursuant to 29 U.S.C. § 216(b).

53. Those similarly situated employees are known to Defendant, are readily identifiable, and can be located through Defendant's records.

54. In recognition of the services Plaintiffs have rendered and will continue to render to the FLSA Collective, Plaintiffs will request payment of service awards upon resolution of this action.

PLAINTIFFS' FACTUAL ALLEGATIONS

55. Consistent with their policies and patterns or practices as described herein, Defendant harmed Plaintiffs, individually, as follows:

Katrine Grant

56. Defendant did not pay Grant the proper minimum wages, overtime wages, and spread-of-hours pay for all of the time that she was suffered or permitted to work each workweek.

57. At all times relevant, Grant was entitled to receive the full statutory minimum wage rate for the first 40 hours of work each week, and time and one-half the full statutory minimum wage rate for all hours worked beyond 40 each week.

58. Defendants failed to properly notify Grant of the tip credit provisions of the NYLL and the FLSA, or of their intent to apply a tip credit to her wages.

59. Defendant failed to furnish Grant with a statement with each payment of wages listing her hours worked, rates paid, gross wages, and tip allowance claimed, and/or to preserve weekly payroll records showing allowances claimed as part of the minimum wage.

60. Grant was unable to retain all of the tips she received during the course of her employment with Defendant.

61. As a result of the above, Defendant did not satisfy the requirements under the NYLL and FLSA by which it could apply a tip credit to Grant's wages, and Defendant failed to compensate Grant at the proper minimum wage and overtime rates.

62. Defendant suffered or permitted Grant to work over 40 hours per week as an entertainer, up to a maximum of approximately 45 hours per week. During such workweeks, Defendant did not compensate Grant at time and one-half the full minimum wage rate for all of the overtime hours she worked.

63. Defendant did not pay Grant one additional hour of pay at the basic minimum hourly rate for all of the times that the length of the interval between the beginning and end of her workday – including working time plus time off for meals plus intervals off duty – was greater than 10 hours.

64. Defendant did not allow Grant to retain all of the tips she earned.

65. Defendant unlawfully demanded, handled, pooled, counted, distributed, accepted, and/or retained portions of the tips that Grant earned.

66. Defendant unlawfully redistributed part of Grant's tips to employees who are in positions that are not entitled to tips under the NYLL and/or the FLSA, such as "House Moms," DJs, and private room hostesses.

67. Defendant made unlawful deductions from Grant's wages, including, but not limited to, deductions for house fees, late fees/fines, missed work fees/fines, Dance Dollar cash out fees, and mandatory tip outs.

68. Defendant required Grant to purchase and wear a uniform that: (a) may not be worn as part of Grant's ordinary wardrobe; (b) is not made of "wash and wear" materials; (c) cannot be routinely washed and dried with other personal garments; and (d) requires ironing, dry cleaning, daily washing, and/or other special treatment. Defendant did not launder and/or maintain Grant's mandatory uniform, pay Grant the required weekly amount for uniform maintenance in addition to the required minimum wage, or reimburse Grant for uniform-related expenses.

69. Defendant did not keep accurate records of wages or tips earned, or of hours worked by Grant.

70. Defendant failed to furnish Grant with proper wage notices, as required by the NYLL.

71. Defendant failed to furnish Grant with a proper statement with every payment of wages, as required by the NYLL.

Nataliya Konyeva

72. Defendant did not pay Konyeva the proper minimum wages, overtime wages, and spread-of-hours pay for all of the time that she was suffered or permitted to work each workweek.

73. At all times relevant, Konyeva was entitled to receive the full statutory minimum wage rate for the first 40 hours of work each week, and time and one-half the full statutory minimum wage rate for all hours worked beyond 40 each week.

74. Defendants failed to properly notify Konyeva of the tip credit provisions of the NYLL and the FLSA, or of their intent to apply a tip credit to her wages.

75. Defendant failed to furnish Konyeva with a statement with each payment of wages listing her hours worked, rates paid, gross wages, and tip allowance claimed, and/or to preserve weekly payroll records showing allowances claimed as part of the minimum wage.

76. Konyeva was unable to retain all of the tips she received during the course of her employment with Defendant.

77. As a result of the above, Defendant did not satisfy the requirements under the NYLL and FLSA by which it could apply a tip credit to Konyeva's wages, and Defendant failed to compensate Konyeva at the proper minimum wage and overtime rates.

78. Defendant suffered or permitted Konyeva to work over 40 hours per week as an entertainer, up to a maximum of approximately 45 hours per week. During such workweeks, Defendant did not compensate Konyeva at time and one-half the full minimum wage rate for all of the overtime hours she worked.

79. Defendant did not pay Konyeva one additional hour of pay at the basic minimum hourly rate for all of the times that the length of the interval between the beginning and end of her workday – including working time plus time off for meals plus intervals off duty – was greater than 10 hours.

80. Defendant did not allow Konyeva to retain all of the tips she earned.

81. Defendant unlawfully demanded, handled, pooled, counted, distributed, accepted, and/or retained portions of the tips that Konyeva earned.

82. Defendant unlawfully redistributed part of Konyeva's tips to employees who are in positions that are not entitled to tips under the NYLL and/or the FLSA, such as "House Moms," DJs, and private room hostesses.

83. Defendant made unlawful deductions from Konyeva's wages, including, but not limited to, deductions for house fees, late fees/fines, missed work fees/fines, Dance Dollar cash out fees, and mandatory tip outs.

84. Defendant required Konyeva to purchase and wear a uniform that: (a) may not be worn as part of Konyeva's ordinary wardrobe; (b) is not made of "wash and wear" materials; (c) cannot be routinely washed and dried with other personal garments; and (d) requires ironing, dry cleaning, daily washing, and/or other special treatment. Defendant did not launder and/or maintain Konyeva's mandatory uniform, pay Konyeva the required weekly amount for uniform maintenance in addition to the required minimum wage, or reimburse Konyeva for uniform-related expenses.

85. Defendant did not keep accurate records of wages or tips earned, or of hours worked by Konyeva.

86. Defendant failed to furnish Konyeva with proper wage notices, as required by the NYLL.

87. Defendant failed to furnish Konyeva with a proper statement with every payment of wages, as required by the NYLL.

FIRST CAUSE OF ACTION
New York Labor Law – Minimum Wages
(Brought on behalf of Plaintiffs and the members of the Class)

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

89. Defendant has engaged in a widespread pattern, policy, and practice of violating the NYLL, as detailed in this Class Action Complaint.

90. At all times relevant, Plaintiffs and the members of the Class have been employees of Defendant, and Defendant has been an employer of Plaintiffs and the members of the Class within the meaning of the NYLL §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations.

91. At all times relevant, Plaintiffs and the members of the Class have been covered by the NYLL.

92. The minimum wage provisions of Article 19 of the NYLL and the supporting New York State Department of Labor Regulations apply to Defendant, and protect Plaintiffs and the members of the Class.

93. Defendant has failed to pay Plaintiffs and the members of the Class the minimum hourly wages to which they are entitled under the NYLL and the supporting New York State Department of Labor Regulations.

94. Pursuant to the NYLL §§ 650 *et seq.* and the supporting New York State Department of Labor Regulations, Defendant has been required to pay Plaintiffs and the members of the Class the full minimum wage at a rate of: (a) $7.15 per hour for all hours worked from December 9, 2008

through July 23, 2009; (b) $7.25 per hour for all hours worked from July 24, 2009 through December 30, 2013; (c) $8.00 per hour for all hours worked from December 31, 2013 through December 30, 2014; and (d) $8.75 per hour for all hours worked from December 31, 2014 through the present.

95. Prior to January 1, 2011, Defendant failed to furnish with every payment of wages to Plaintiffs and the members of the Class a statement listing hours worked, rates paid, gross wages, and tip allowance claimed as part of their minimum hourly wage rate, as required by the NYLL and the supporting New York State Department of Labor Regulations. As a result, Plaintiffs and the members of the Class were entitled to the full minimum wage rate rather than the reduced tipped minimum wage rate during this time period.

96. Prior to January 1, 2011, Defendant failed to keep, make, preserve, maintain, and furnish accurate records of time worked by Plaintiffs and the members of the Class, as required by the NYLL and the supporting New York State Department of Labor Regulations. As a result, Plaintiffs and the members of the Class were entitled to the full minimum wage rate rather than the reduced tipped minimum wage rate during this time period.

97. Since January 1, 2011, Defendant has failed to notify Plaintiffs and the members of the Class of the tip credit in writing as required by the NYLL and the supporting New York State Department of Labor Regulations. As a result, Plaintiffs and the members of the Class have been entitled to the full minimum wage rate rather than the reduced tipped minimum wage rate since January 1, 2011.

98. Through its knowing or intentional failure to pay Plaintiffs and the members of the Class the appropriate minimum hourly wages, Defendant has willfully violated the NYLL, Article 19, §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations.

99. Due to Defendant's willful violations of the NYLL, Plaintiffs and the members of the Class are entitled to recover from Defendant their unpaid minimum wages, liquidated damages as provided for by the NYLL, reasonable attorneys' fees, costs, and pre-judgment and post-judgment interest.

SECOND CAUSE OF ACTION
New York Labor Law – Unpaid Overtime
(Brought on behalf of Plaintiffs and the members of the Class)

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

101. The overtime wage provisions of Article 19 of the NYLL and its supporting regulations apply to Defendant, and protect Plaintiffs and the members of the Class.

102. Defendant has failed to pay Plaintiffs and the members of the Class overtime at a rate of one and one-half times the full minimum wage rate for hours worked in excess of 40 per week, in violation of the NYLL and the supporting New York State Department of Labor Regulations.

103. Defendant has failed to keep, make, preserve, maintain, and furnish accurate records of time worked by Plaintiffs and the members of the Class.

104. Through its knowing or intentional failure to pay Plaintiffs and the members of the Class the appropriate overtime wages for hours worked in excess of 40 per workweek, Defendant has willfully violated the NYLL, Article 19, §§ 650 *et seq*., and the supporting New York State Department of Labor Regulations.

105. Due to Defendant's willful violations of the NYLL, Plaintiffs and the members of the Class are entitled to recover from Defendant their unpaid overtime wages, liquidated damages as provided for by the NYLL, reasonable attorneys' fees and costs of the action, and pre-judgment and post-judgment interest.

THIRD CAUSE OF ACTION
New York Labor Law – Spread-of-Hours Pay
(Brought on behalf of Plaintiffs and the members of the Class)

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

107. Defendant has failed to pay Plaintiffs and the members of the Class additional compensation of one hour's pay at the basic minimum hourly wage rate for each day that the length of the interval between the beginning and end of their workday – including working time plus time off for meals plus intervals off duty – was greater than 10 hours.

108. Through its knowing or intentional failure to pay Plaintiffs and the members of the Class spread-of-hours pay, Defendant has willfully violated the NYLL, Article 19, §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations.

109. Due to Defendant's willful violations of the NYLL, Plaintiffs and the members of the Class are entitled to recover from Defendant their unpaid spread-of-hours wages, liquidated damages as provided for by the NYLL, reasonable attorneys' fees and costs of the action, and pre-judgment and post-judgment interest.

FOURTH CAUSE OF ACTION
New York Labor Law –Tip Misappropriation
(Brought on behalf of Plaintiffs and the members of the Class)

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

111. At all times relevant, Plaintiffs and the members of the Class have been employees within the meaning of NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

112. At all times relevant, Defendant has been an employer within the meaning of the NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

113. The wage payment provisions of Article 6 of the NYLL, and the supporting New York State Department of Labor Regulations, apply to Defendant, and protect Plaintiffs and the members of the Class.

114. Defendant has unlawfully demanded or accepted, directly or indirectly, part of the gratuities received by Plaintiffs and the members of the Class in violation of NYLL, Article 6, § 196-d, and the supporting New York State Department of Labor Regulations.

115. Defendant has unlawfully retained part of the gratuities earned by Plaintiffs and the members of the Class in violation of NYLL, Article 6, § 196-d, and the supporting New York State Department of Labor Regulations.

116. Defendant has required Plaintiffs and the members of the Class to share part of the gratuities they received with employees other than waiters, servers, bussers, or similar employees, in violation of NYLL, Article 6 § 196-d, and the supporting New York State Department of Labor Regulations.

117. Through its knowing or intentional demand for, acceptance of, and/or retention of gratuities received by Plaintiffs and the members of the 23 Class, Defendant has willfully violated the NYLL, Article 6, § 196-d, and the supporting New York State Department of Labor Regulations, including, but not limited to, the regulations in 12 N.Y.C.R.R. Part 137 and Part 146.

118. Due to Defendant's willful violations of the NYLL, Plaintiffs and the members of the Class are entitled to recover from Defendant the value of the misappropriated gratuities, liquidated damages as provided for by the NYLL, reasonable attorneys' fees and costs of the action, and pre-judgment and post-judgment interest.

FIFTH CAUSE OF ACTION
New York Labor Law – Unlawful Deductions from Wages
(Brought on behalf of Plaintiffs and the members of the Class)

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

120. Defendant has made unlawful deductions from the wages of Plaintiffs and the members of the Class, including, but not limited to, deductions for house fees, late fees/fines, missed work fees/fines, Dance Dollar cash out fees, and mandatory tip outs.

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

122. The deductions made from the wages of Plaintiffs and the members of the Class were not expressly authorized in writing by Plaintiffs and the members of the Class, and were not for the benefit of Plaintiffs and the members of the Class.

123. Through its knowing or intentional efforts to permit unauthorized deductions from the wages of Plaintiffs and the members of the Class, Defendant has willfully violated NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

124. Due to Defendant's willful violations of the NYLL, Plaintiffs and the members of the Class are entitled to recover from Defendant the amounts of any unlawful deductions, liquidated damages as provided for by the NYLL, reasonable attorneys' fees and costs of the action, and pre-judgment and post-judgment interest.

SIXTH CAUSE OF ACTION
New York Labor Law – Uniform Violations
(Brought on behalf of Plaintiffs and the members of the Class)

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

126. Defendant has required Plaintiffs and the members of the Class to purchase and wear a uniform consisting of clothing that is not ordinary basic street clothing selected by Plaintiffs and the members of the Class, and that may not be worn as part of Plaintiffs' and the members of the Class' ordinary wardrobe.

127. Defendant has failed to launder and/or maintain mandatory uniforms for Plaintiffs and the members of the Class, and have failed to pay Plaintiffs and the members of the Class the required weekly amount for uniform maintenance in addition to the required minimum wage.

128. Through its knowing or intentional failure to pay and/or reimburse Plaintiffs and the members of the Class for mandatory uniform-related expenses, Defendant has willfully violated NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

129. Due to Defendant's willful violations of the NYLL, Plaintiffs and the members of the Class are entitled to recover from Defendant the costs of purchasing and maintaining their uniforms, liquidated damages as provided for by the NYLL, reasonable attorneys' fees and costs of the action, and pre-judgment and post-judgment interest.

SEVENTH CAUSE OF ACTION
New York Labor Law – Failure to Provide Proper Wage Notices
(Brought on behalf of Plaintiffs and the members of the Class)

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

131. Defendant has failed to furnish Plaintiffs and the members of the Class with wage notices as required by NYLL, Article 6, § 195(1), in English or in the language identified by each employee as their primary language, at the time of hiring, and on or before February first of each subsequent year of the employee's employment with the employer, a notice containing: the

rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer in accordance with NYLL, Article 6, § 191; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; the telephone number of the employer; plus such other information as the commissioner deems material and necessary.

132. Through its failure to provide Plaintiffs and the members of the Class with the wage notices required by the NYLL, Defendant has violated NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

133. Due to Defendant's violations of NYLL, Article 6, § 195(1), Plaintiffs and the members of the Class are entitled to damages of fifty dollars for each workweek that Defendant failed to provide Plaintiffs and the members of the Class with proper wage notices, or a total of twenty-five hundred dollars each, reasonable attorneys' fees, costs, and injunctive and declaratory relief, as provided for by NYLL, Article 6, § 198(1-b).

EIGHTH CAUSE OF ACTION
New York Labor Law – Failure to Provide Proper Wage Statements
(Brought on behalf of Plaintiffs and the members of the Class)

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

135. Defendant has failed to furnish Plaintiffs and the members of the Class with a statement with every payment of wages as required by NYLL, Article 6, § 195(3), listing: 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; and the number of regular and overtime hours worked.

136. Through its failure to provide Plaintiffs and the members of the Class with the wage statements required by the NYLL, Defendant has violated NYLL, Article 6, §§ 190 *et seq.*, and the supporting New York State Department of Labor Regulations.

137. Due to Defendant's violations of NYLL, Article 6, § 195(3), Plaintiffs and the members of the Class are entitled to damages of one hundred dollars for each workweek that Defendant failed to provide Plaintiffs and the members of the Class with proper wage statements, or a total of twenty-five hundred dollars each, reasonable attorneys' fees, costs, and injunctive and declaratory relief, as provided for by NYLL, Article 6, § 198(1-d).

NINTH CAUSE OF ACTION
Fair Labor Standards Act – Minimum Wages
(Brought on behalf of Plaintiffs and the members of the FLSA Collective)

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

139. Defendant has engaged in a widespread pattern, policy, and practice of violating the FLSA, as detailed in this Complaint.

140. Plaintiffs have consented to be a party to this action, pursuant to 29 U.S.C. § 216(b).

141. At all times relevant, Plaintiffs and the members of the FLSA Collective were employed by an entity engaged in commerce and/or the production or sale of goods for commerce within the meaning of 29 U.S.C. §§ 201 *et seq.*, and/or they were engaged in commerce and/or the production or sale of goods for commerce within the meaning of 29 U.S.C. §§ 201 *et seq.*

142. At all times relevant, Plaintiffs and the members of the FLSA Collective were or have been employees within the meaning of 29 U.S.C. §§ 201 *et seq.*

143. At all times relevant, Defendant has been an employer of Plaintiffs and the members of the FLSA Collective, engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 201 *et seq.*

144. The minimum wage provisions set forth in the FLSA, 29 U.S.C. §§ 201 *et seq.*, and the supporting federal regulations, apply to Defendant and protect Plaintiffs and the members of the FLSA Collective.

145. Defendant has failed to pay Plaintiffs and the members of the FLSA Collective the minimum wages to which they are entitled under the FLSA.

146. Defendant has been required to pay directly to Plaintiffs and the members of the FLSA Collective the full federal minimum wage rate for all hours worked.

147. Defendant has not been eligible to avail itself of the federal tipped minimum wage rate under the FLSA, 29 U.S.C. §§ 201 *et seq.*, because Defendant has failed to inform Plaintiffs and the members of the FLSA Collective of the provisions of subsection 203(m) of the FLSA, and have distributed a portion of their tips to workers who do not "customarily and regularly" receive tips.

148. Defendant's unlawful conduct, as described in this Complaint, has been willful and intentional. Defendant is aware or should have been aware that the practices described in this Complaint are unlawful. Defendant has not made a good faith effort to comply with the FLSA with respect to the compensation of Plaintiffs and the members of the FLSA Collective.

149. Because Defendant's violations of the FLSA have been willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. §§ 201 *et seq.*

150. As a result of Defendant's willful violations of the FLSA, Plaintiffs and the members of the FLSA Collective have suffered damages by being denied minimum wages in accordance with the FLSA in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. §§ 201 *et seq.*

TENTH CAUSE OF ACTION
Fair Labor Standards Act – Unpaid Overtime
(Brought on behalf of Plaintiffs and the members of the FLSA Collective)

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

152. The overtime wage provisions set forth in the FLSA, 29 U.S.C. §§ 201 *et seq.*, and the supporting federal regulations, apply to Defendant and protect Plaintiffs and the members of the FLSA Collective.

153. Defendant has failed to pay Plaintiffs and the members of the FLSA Collective the premium overtime wages to which they are entitled under the FLSA for all hours worked beyond 40 per workweek.

154. Defendant's unlawful conduct, as described in this Complaint, has been willful and intentional. Defendant is aware or should have been aware that the practices described in this Complaint are unlawful. Defendant has not made a good faith effort to comply with the FLSA with respect to the compensation of Plaintiffs and the members of the FLSA Collective.

155. Because Defendant's violations of the FLSA have been willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. §§ 201 *et seq.*

156. As a result of Defendant's willful violations of the FLSA, Plaintiffs and the members of the FLSA Collective have suffered damages by being denied overtime compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. §§ 201 *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually, and on behalf of all other similarly situated persons, respectfully request that this Court grant the following relief:

A. An order certifying the case as a class action pursuant to CPLR §§ 901 and 902 for the class of employees described herein, certifying Plaintiffs as the class representatives, and designating Plaintiffs' counsel as Class counsel;

B. Unpaid minimum wages, overtime compensation, spread-of-hours pay, misappropriated tips, unlawful deductions, uniform-related expenses, and liquidated damages permitted by law pursuant to NYLL, Article 6, §§ 190 *et seq.*, and Article 19, §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations;

C. Damages of fifty dollars for each workweek that Defendant failed to provide Plaintiffs and the members of the Class with proper wage notices, or a total of twenty-five hundred dollars each, as provided for by NYLL, Article 6 § 198;

D. Damages of one hundred dollars for each workweek that Defendant failed to provide Plaintiffs and the members of the Class with proper wage statements, or a total of twenty-five hundred dollars each, as provided for by NYLL, Article 6 § 198;

E. That, at the earliest possible time, Plaintiffs be allowed to give notice of this collective action, or that the Court issue such notice, to all entertainers/dancers who have not signed arbitration agreements with Defendant who are presently, or have at any time during the six years

immediately preceding the filing of this suit, up through and including the date of this Court's issuance of court-supervised notice, worked at Flashdancers in New York. Such notice shall inform them that this civil action has been filed, of the nature of the action, and of their right to join this lawsuit if they believe they were denied proper wages;

F. Unpaid minimum wage, overtime compensation, and an additional and equal amount as liquidated damages pursuant to the FLSA and the supporting United States Department of Labor Regulations;

G. Payment of reasonable service awards to Plaintiffs, in recognition of the services they have rendered and will continue to render to the Class and FLSA Collective, and the risks they have taken on behalf of the Class and FLSA Collective.

H. Pre-judgment and post judgment interest, as provided by law;

I. An injunction requiring Defendant to pay all statutorily required wages and cease the unlawful activity described herein pursuant to the NYLL;

J. Reasonable attorneys' fees and costs of the action; and

K. Such other relief as this Court shall deem just and proper.

Dated: New York, New York
March 5, 2015

Respectfully submitted,

Brian S. Schaffer

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Attorneys for Plaintiffs and the Putative Class

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, BRIAN S. SCHAFFER, the undersigned, am an attorney admitted to practice in the Courts of New York State, and say that:

I am a member of Fitapelli & Schaffer, LLP, the attorneys for Plaintiffs Katrine Grant and Nataliya Konyeva (collectively "Plaintiffs"). I have read the annexed SUMMONS AND CLASS ACTION COMPLAINT, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Interviews and/or discussions with Plaintiffs and papers and/or documents in the file.

The reason I make this Verification instead of Plaintiffs is because one of the Plaintiffs reside outside of the County from where Fitapelli & Schaffer, LLP, maintains its office of the practice of law.

Dated: New York, New York
March 5, 2015

BRIAN SCHAFFER