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

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ARMANDO FRANCISCO FLORES, NOE
ESCAMILLA VILLANO, and MARIO
CLEMENTE, *individually and on behalf of
others similarly situated,*

Plaintiffs,

-against-

CHOWBUS INC. (D/B/A CHOWBUS),
FANTUAN GROUP, INC. (D/B/A
CHOWBUS), CHOWBUS GROCERY LLC
(D/B/A CHOWBUS), CHEN PU, EDDIE
LOU, and LINXIN WEN,

Defendants.

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COMPLAINT

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

ECF Case

Plaintiffs Armando Francisco Flores, Noe Escamilla Villano, and Mario Clemente ,
individually and on behalf of others similarly situated (collectively, “Plaintiffs”), by and through
their attorneys, Michael Faillace & Associates, P.C., upon their knowledge and belief, and as
against Chowbus Inc. (d/b/a Chowbus), Fantuan Group, Inc. (d/b/a Chowbus), Chowbus Grocery
LLC (d/b/a Chowbus), (“Defendant Corporations”), Chen Pu, Eddie Lou, and Linxin Wen,
 (“Individual Defendants”), (collectively, “Defendants”), allege as follows:

NATURE OF ACTION

1. Plaintiffs are former employees of Defendants Chowbus Inc. (d/b/a Chowbus), Fantuan Group, Inc. (d/b/a Chowbus), Chowbus Grocery LLC (d/b/a Chowbus), Chen Pu, Eddie Lou, and Linxin Wen.

2. Defendants own, operate, or control a food service delivery application, located at 55 E Jackson Blvd., Ste. 450, Chicago, IL 60604 under the name “Chowbus.”

3. Upon information and belief, individual Defendants Chen Pu, Eddie Lou, and Linxin Wen, serve or served as owners, managers, principals, or agents of Defendant Corporations and, through these corporate entities, operate or operated a delivery application as a joint or unified enterprise.

4. Plaintiffs were employed as delivery workers at a delivery application located at 55 E Jackson Blvd., Ste. 450, Chicago, IL 60604.

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

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

7. Further, Defendants failed to pay Plaintiffs the required “spread of hours” pay for any day in which they had to work over 10 hours a day.

8. Furthermore, Defendants repeatedly failed to pay Plaintiffs wages on a timely basis.

9. In addition, Defendants maintained a policy and practice of unlawfully appropriating Plaintiffs’ and other tipped employees’ tips and made unlawful deductions from these Plaintiffs’ and

other tipped employees' wages.

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

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

12. Plaintiffs now bring this action on behalf of themselves, and other similarly situated individuals, for unpaid minimum and overtime wages pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* ("FLSA"), and for violations of the N.Y. Labor Law §§ 190 *et seq.* and 650 *et seq.* (the "NYLL"), and the "spread of hours" and overtime wage orders of the New York Commissioner of Labor codified at N.Y. COMP. CODES R. & REGS. tit. 12, § 146-1.6 (herein the "Spread of Hours Wage Order"), including applicable liquidated damages, interest, attorneys' fees and costs.

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

JURISDICTION AND VENUE

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

15. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) because all, or a substantial portion of, the events or omissions giving rise to the claims occurred in this district,

Defendants maintain their corporate headquarters and offices within this district, and Defendants operate a food service delivery application located in this district. Further, Plaintiffs were employed by Defendants in this district.

PARTIES

Plaintiffs

16. Plaintiff Armando Francisco Flores (“Plaintiff Flores” or “Mr. Flores”) is an adult individual residing in Bronx County, New York.

17. Plaintiff Flores was employed by Defendants at Chowbus from approximately March 2020 until on or about October 2020.

18. Plaintiff Noe Escamilla Villano (“Plaintiff Escamilla” or “Mr. Escamilla”) is an adult individual residing in Bronx County, New York.

19. Plaintiff Escamilla was employed by Defendants at Chowbus from approximately February 26, 2020 until on or about June 27, 2020.

20. Plaintiff Mario Clemente (“Plaintiff Clemente” or “Mr. Clemente”) is an adult individual residing in New York County, New York.

21. Plaintiff Clemente was employed by Defendants at Chowbus from approximately May 15, 2020 until on or about September 21, 2020.

Defendants

22. At all relevant times, Defendants owned, operated or controlled food service delivery application, located at 55 E Jackson Blvd., Ste. 450, Chicago, IL 60604 under the name “Chowbus.”

23. Upon information and belief, Chowbus Inc. (d/b/a Chowbus) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 55 E Jackson Blvd., Ste. 450, Chicago, IL 60604.

24. Upon information and belief, Fantuan Group, Inc. (d/b/a Chowbus) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 55 E Jackson Blvd., Ste. 450, Chicago, IL 60604.

25. Upon information and belief, Chowbus Grocery LLC (d/b/a Chowbus) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 55 E Jackson Blvd., Ste. 450, Chicago, IL 60604.

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

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

28. Defendant Linxin Wen is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant Linxin Wen is sued individually in his capacity as owner, officer and/or agent of Defendant Corporations. Defendant Linxin Wen

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