

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JESSY MANGAHAS, and PITHCHAYA WOHLFAHRT,
on behalf of themselves and all others similarly situated,

Plaintiff,

-against-

EIGHT ORANGES INC. DBA THE BAO; CHIBAOLA,
INC. DBA ULUH; JOANNE HONG BAO, individually,
and RICHARD LAM, individually,

Defendants.

No: 1:22-cv-04150 (LJL)

CLASS NOTICE OF PENDING LAWSUIT
REGARDING WAGES

**IF YOU WERE EMPLOYED AS A TIPPED WORKER AT THE BAO and/or ULUH IN NEW YORK AT ANY
TIME SINCE OCTOBER 5, 2015, PLEASE READ THIS NOTICE**

*The Court authorized this Notice
This Notice is NOT a solicitation from a lawyer.*

A Class Action Lawsuit May Affect Your Legal Rights

- Jessy Mangahas and Pithchaya Wohlfahrt (together “Plaintiffs” or “Class Representatives”) are former tipped workers who worked at The Bao located at 13 St. Mark Place, New York, New York 10003 and/or Uluh located at 152 2nd Avenue., New York, New York 10003.
- The Plaintiffs filed this class action lawsuit claiming that the restaurants (1) failed to pay tipped workers the full minimum wage for all hours worked (for example, \$15.00 per hour as opposed to \$10.00 per hour since 2019), (2) failed to pay overtime of 1.5 times this full minimum wage, (3) required tipped workers to share tips with non-tip eligible employees, (4) required tipped workers to spend more than 20% or 2 hours of their time performing side work, (5) charged tipped workers for customer walkouts, incorrect orders, and breakage (“deductions”), (6) required tipped workers to pay for their uniforms without reimbursement, (7) and provided tipped workers with insufficient pay notice forms and paystubs.
- If you know of others who worked at The Bao or Uluh as a server, busser, or runner, anytime between October 5, 2015 and the present please reach out to them and inform them of this notice. Please feel free to contact Plaintiffs’ counsel for more information at (212) 300- 0375 or by email at info@fslawfirm.com.
- The Defendants in this case (the Restaurants and their ownership) deny that the Class Representative’s claims have merit, and will assert various defenses against those claims.
- **The Court has not decided who is right or wrong. Your legal rights may be affected and you have a choice to make.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

REMAIN IN THE LAWSUIT	<p>If you do nothing in response to this Notice, you will remain a member of the Class. This may allow you to get money or other benefits that may come from a trial or settlement of this class action lawsuit.</p> <p>By remaining a member of the Class, you give up the right to separately bring a lawsuit against The Bao and Uluh and their ownership for unpaid wages under the New York Labor Law. You will be legally bound by all of the orders that the Court issues and judgments that the Court enters in this class action lawsuit. Regardless of whether the Plaintiffs win or lose this lawsuit, you will not be able to sue The Bao or Uluh in a separate action under the New York State Labor Law for the claims alleged in this case.</p> <p>If you remain in this lawsuit and the Plaintiffs succeed in proving the claims against The Bao and Uluh, and if money or other benefits are obtained from the restaurants, you will be notified about how to receive a share of the money or other benefits.</p>
EXCLUDE YOURSELF FROM THE CLASS ACTION	<p>If you make a timely and valid request to exclude yourself from the lawsuit by sending a written, signed Opt-Out Statement by October 21, 2024, you will not participate as a class member in this lawsuit. You will not give up your right to sue Defendants for any claims that you may have.</p>

1. Why did I get this notice?

You are getting this notice because Defendants' records show that you work or worked at The Bao or Uluh Restaurant as a tipped worker between October 5, 2015 and the present. This Notice explains that the Court has authorized the Plaintiffs to proceed with a class action lawsuit under New York Labor Law. As described above, you have legal rights and options that you may exercise.

2. What is a class action and who is involved?

In a class action, one or more people called "Class Representatives" bring a lawsuit on behalf of other people who have similar claims, called the "Class." Class members automatically are included in the case unless they choose to exclude themselves, in writing, from the Class.

Here, all tipped workers who were employed by The Bao and Uluh at any time since October 5, 2015 are automatically part of the class action, unless they decide to exclude themselves from the Class by sending in the attached "Exclusion Request" form by **October 21, 2024**. The Court may determine at a later date, however, that certain individuals will not remain a part of the class action.

If you know of others who worked at The Bao or Uluh as a server, busser, or runner, anytime between October 5, 2015 and the present please reach out to them and inform them of this notice.

3. What is this lawsuit about?

The Class Representatives claim that The Bao and Uluh owe them and tipped workers money damages due to alleged unlawful pay practices. Specifically, they claim that the restaurants (1) failed to pay tipped workers the full minimum wage for all hours worked (for example, \$15.00 per hour since 2019), (2) failed to pay overtime of 1.5 times this full minimum wage, (3) required tipped workers to share tips with non-tip eligible employees, (4) required tipped workers to spend more than 20% or 2 hours of their time performing side work, (5) charged tipped workers for customer walkouts, incorrect orders, and breakage ("deductions"), (6) required tipped workers to pay for their uniforms without reimbursement, (7) and provided tipped workers with insufficient pay notice forms and paystubs.

The Bao and Uluh claim that all employees were paid for all hours worked, including all minimum wages overtime compensation that they were entitled to, and deny that the restaurants improperly retained customer tips/service charges. They also contend all documentation given complied with New York law.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action with respect to the Class Representatives' claims under the New York State Law because the Court found that:

- (i) There are a sufficient number of potential class members to proceed as a class action;
- (ii) There are legal questions and facts that are common to each member of the class;
- (iii) The Class Representatives' claims are typical of the claims of the other class members;
- (iv) The Class Representatives will fairly and adequately represent the interests of the Class;
- (v) Common legal questions and facts predominate over (are more important than) questions that affect only individuals; and
- (vi) A class action is superior to having individual lawsuits.

5. I'm not sure if I am included in the Class Action and how can I exclude myself if I want to?

If you worked at The Bao or Uluh as a tipped worker, such as a server, busser, or runner, anytime between October 5, 2015 and the present you are automatically part of the class action, unless you decide to exclude yourself by sending in the attached "Exclusion Request" form by **October 21, 2024**.

For further information: You can get free help by calling or writing Class Counsel, Fitapelli & Schaffer, LLP, at the phone numbers or addresses listed on the last page of this Notice.

6. Can I participate in the lawsuit even though, due to my immigration status, I did not work at the restaurants legally?

Yes. Your immigration status does not affect your ability to participate in this lawsuit or to recover back wages if the Court determines that wages are owed to you.

7. Can the restaurants or my current employers fire me or take other action against me because I am a part of this case?

No. Federal and state law prohibits any employer from discharging or in any other manner retaliating against any worker for being a class member. If you have any questions about this, contact Class Counsel, Fitapelli & Schaffer, LLP, at the phone numbers or addresses listed below.

8. Do I have a lawyer in this case?

The law firm of Fitapelli & Schaffer, LLP is representing you and all Class members and has been designated by the Court as “Class Counsel” in this lawsuit. You can obtain more information about Fitapelli & Schaffer, LLP by visiting <http://www.fslawfirm.com>, or by calling or writing them at the telephone number or address listed below.

FITAPELLI & SCHAFFER, LLP

Armando A. Ortiz, Esq.
Katherine Bonilla, Esq.
28 Liberty Street, 30th Floor
New York, New York 10005
212-300-0375
info@fslawfirm.com

As Class Counsel, Fitapelli & Schaffer, LLP, is handling this matter on a contingency basis, i.e., the attorneys’ fees will be determined on a percentage basis based on the recovery on behalf of the Class, and the Class will not be responsible for fees or legal costs if there is no recovery. The agreement further provides that at the conclusion of the case, Class Counsel will make an application to the Court for the recovery of fees and costs and that the Court has discretion on the amount of fees to award.

If you choose to remain in the Class, you do not need to hire your own attorney because Class Counsel will represent you and all other Class members. You are permitted to retain a separate attorney if you so choose; however, you have to pay that attorney’s fees and expenses.

9. This Notice has been authorized by the Court

This notice and its contents have been authorized by Honorable Judge Lewis J. Liman of the United States District Court for the Southern District of New York. The Court has not yet ruled on whether Plaintiffs’ claims or Defendants’ defenses have any merit.

Please do not write or call the Court about this notice.

Although the Court has approved the sending of this notice, the Court expresses no opinion on the merits of this lawsuit.

美国纽约南区
联邦地区法院

JESSY MANGAHAS 和 PITHCHAYA WOHLFAHRT
代表他们自己和处于类似情况的所有其他人。

原告。

-诉-

EIGHT ORANGES INC. (经营别称) THE
BAO; CHIBAOLA, INC. (经营别称) ULUH; JOANNE
HONG BAO 个人以及 RICHARD LAM 个人。

被告。

编号: 1:22-cv-04150 (LJL)

关于工资的未决诉讼的集体通知

如果您自 2015 年 10 月 5 日起的任何时候是在纽约的 THE BAO 和/或 ULUH 工作的赚小费的工作人员，则请
阅读本通知

法院授权本通知

本通知不构成律师的招揽。

集体诉讼可能会影响您的合法权利

- Jessy Mangahas 和 Pithchaya Wohlfahrt (合称“原告”或“集体代表”) 是之前在 The Bao (位于 13 St. Mark Place, New York, New York 10003) 和/或 Uluh (位于 152 2nd Avenue., New York, New York 10003) 工作的赚小费的工作人员。
- 原告提起本集体诉讼，声称这些餐厅 (1) 未向赚小费的工作人员支付所有工作时间的全额最低工资 (例如，2019 年以来为 15.00 美元/小时，而非 10.00 美元/小时)，(2) 未支付相当于该全额最低工资 1.5 倍的加班费，(3) 要求赚小费的工作人员与不符合小费条件的员工分享小费，(4) 要求赚小费的工作人员花 20% 或 2 小时以上的时间完成附带工作，(5) 指控赚小费的工作人员导致了客户流失、订单出错和破损 (“扣减”)，(6) 要求赚小费的工作人员支付其制服的费用，并不予报销，(7) 以及向赚小费的工作人员提供不充分的费用通知表和工资单。
- 如果您知道在 2015 年 10 月 5 日至今的任何时候在 The Bao 或 Uluh 担任服务员、餐厅助手或传菜员的其他人，请联系他们，并将本通知告知他们。如需更多信息，请随时致电 (212) 300- 0375 或发送电子邮件至 info@fslawfirm.com 联系原告律师。
- 在本案中，被告 (这些餐厅及其所有者) 否认集体代表的诉讼有任何依据，并将针对这些诉讼提出各种抗辩。
- 法院尚未就是非对错做出任何判决。您的合法权利可能会受到影响，而您有就此做出选择的权利。

您在本诉讼中的合法权利和选择

继续参与诉讼	如果您在回应本通知时未采取任何行动，则您仍将是集体诉讼的成员。这可能使您从本集体诉讼的审判或和解中获得金钱或其他利益。 保持集体成员身份，即表示您放弃根据《纽约劳动法》单独对 The Bao 和 Uluh 及其未付工资的所有权提起诉讼的权利。您将受法院在本集体诉讼中发布的所有命令和判决的法律约束。无论原告在本诉讼中是胜诉还是败诉，您都不能根据《纽约劳动法》就本案中声称的指控单独对 The Bao 或 Uluh 提起诉讼。 如果您继续参与本诉讼，而原告成功证明了对 The Bao 和 Uluh 的指控，并且如果从餐厅获得金钱或其他利益，您将被告知如何获得金钱或其他利益的相应份额。
把您自己排除在集体诉讼之外	如果您在 2024 年 10 月 21 日之前发送一份经签署的书面《选择退出声明》，以此来及时有效地请求将您自己排除在诉讼之外，则您将不会作为集体成员参与本诉讼。您将不会放弃就自己可能有的任何索赔而起诉被告的权利。

1. 为什么我会收到本通知？

您之所以收到本通知，是因为被告的记录显示您在 2015 年 10 月 5 日至今的期限内以赚小费的工作人员的身份正在或曾在 The Bao 或 Uluh 餐厅工作。本通知解释称，法院已授权原告根据《纽约劳动法》提起集体诉讼。如上所述，您拥有您可以行使的合法权利和选择。

2. 什么是集体诉讼？涉及哪些人？

在集体诉讼中，被称为“集体代表”的一名或多名人员代表拥有类似指控的其他人提起诉讼，这即为“集体诉讼”。除非集体成员选择以书面形式将自己排除在集体之外，否则集体成员将自动包括在案件中。

在本案中，在自 2015 年 10 月 5 日起的任何时候受雇于 The Bao 和 Uluh 的所有赚小费的工作人员自动成为集体诉讼的一部分，除非他们决定在 **2024 年 10 月 21 日** 之前发送随附“排除申请表”将自己排除在集体之外。但是，法院可能会在以后判定某些个人将不会继续参与集体诉讼。

如果您知道在 2015 年 10 月 5 日至今的任何时候在 The Bao 或 Uluh 担任服务员、餐厅助手或传菜员的其他人，请联系他们，并将本通知告知他们。

3. 本诉讼涉及何事宜？

集体代表声称，The Bao 和 Uluh 欠付他们和赚小费的工作人员因涉嫌非法工资行为而须提供的金钱赔偿。具体而言，他们声称这些餐厅 (1) 未向赚小费的工作人员支付所有工作时间的全额最低工资（例如，2019 年以来为 15.00 美元/小时），(2) 未支付相当于该全额最低工资 1.5 倍的加班费，(3) 要求赚小费的工作人员与不符合小费条件的员工分享小费，(4) 要求赚小费的工作人员花 20% 或 2 小时以上的完成附带工作，(5) 指控赚小费的工作人员导致了客户流失、订单出错和破损（“扣减”），(6) 要求赚小费的工作人员支付其制服的费用，并不予报销，(7) 以及向赚小费的工作人员提供不充分的费用通知表和工资单。

The Bao 和 Uluh 声称，所有员工都获得了所有工作时间的报酬，包括他们有权获得的所有最低工资加班费，并否认餐厅不当扣留客户小费/服务费。他们还辩称，提供的所有文件均符合纽约法律。

4. 为何本诉讼是集体诉讼？

法院裁定，就集体代表根据纽约州法律提起的诉讼而言，本诉讼可以采用集体诉讼，因为法院认定：

- (i) 有足够数量的潜在集体成员继续参与集体诉讼；
- (ii) 该集体诉讼的每位成员都有共同的法律问题和事实情况；
- (iii) 集体代表的指控对于其他集体成员的指控而言较为普遍；
- (iv) 集体代表将公平、充分地代表集体的利益；
- (v) 共同的法律问题和事实情况优先于仅影响个体的问题（比其更为重要）；以及
- (vi) 集体诉讼优于个人诉讼。

5. 我不确定我是否包括在集体诉讼中，如果我想，我如何能够将自己排除在外？

如果您在 2015 年 10 月 5 日至今的任何时候以赚小费的工作人员（如服务员、餐厅助手或传菜员）的身份在 The Bao 或 Uluh 工作过，则您自动包括在集体诉讼中，除非您决定在 **2024 年 10 月 21 日** 之前发送随附“排除申请表”而将自己排除在外。

如需更多信息：您可以致电本通知最后一页所列的电话号码或寄信至最后一页所列的地址，与集体律师 Fitapelli & Schaffer, LLP 取得联系，以获得免费帮助。

6. 由于我的移民身份，我在餐厅工作并不合法，那么我是否也可以参与诉讼？

可以。如果法院裁定餐厅欠付您工资，那么您的移民身份不会影响您参与本诉讼或追讨回工资的能力。

7. 餐厅或我目前的雇主能否因为我是本案的一员而解雇我或对我采取其他行动？

不能。联邦和州法律禁止任何雇主对作为集体成员的任何工作人员进行解雇或以任何其他方式进行报复。如果您对此有任何疑问，请通过下面所列的电话号码或地址联系集体律师 Fitapelli & Schaffer, LLP。

8. 我在本案件中有律师吗？

Fitapelli & Schaffer, LLP 律师事务所担任您和所有集体成员的代理，并被法院指定为本诉讼的“集体律师”。您可以通过访问 <http://www.fslawfirm.com> 或致电下面所列的电话号码或寄信至下面所列的地址，获得有关 Fitapelli & Schaffer, LLP 的更多信息。

FITAPELLI & SCHAFFER, LLP
Armando A. Ortiz, Esq.
Katherine Bonilla, Esq.
28 Liberty Street, 30th Floor
New York, New York 10005
212-300-0375
info@fslawfirm.com

由于集体律师 Fitapelli & Schaffer, LLP 在紧急情况下负责处理此事项，即律师费将根据代表诉讼集体的追讨情况按一定比例予以确定，如果未予追讨，则诉讼集体将不负责承担支出或法律费用。此协议进一步规定，在案件结束时，集体律师将向法院提出申请，要求追讨支出和费用，而法院可自行决定裁决的费用金额。

如果您选择继续参与集体诉讼，则您无需聘请自己的律师，因为集体律师将担任您和所有其他集体成员的代理。如果您愿意，您可以聘请一名单独的律师。但是，您须负责支付相关律师费用和支出。

9. 本通知已获法院授权

本通知及其内容已获得美国纽约南区联邦地区法院 Lewis J. Liman 法官的授权。法院尚未裁定原告的指控或被告的抗辩是否有任何依据。

请勿就本通知寄信至法院或致电法院。

虽然法院已批准发送本通知，但法院未就本诉讼是否有依据发表任何意见。

MANGAHAS V EIGHT ORANGES NOTICE ADMINISTRATOR
C/O RUST CONSULTING INC – 8751
PO BOX 2396
FARIBAULT MN 55021-9096

IMPORTANT LEGAL MATERIALS



- UAA - <<SequenceNo>>

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<<CountryName>>

FOR OFFICIAL USE ONLY
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Claimant ID #: <<barcode39>>

EXCLUSION REQUEST FORM

I hereby request to be excluded from this class action lawsuit for unpaid wages known as *Mangahas et al. v. Eight Oranges Inc. et al.*, Case No. 22 Civ. 04150 (LJL). I understand that by excluding myself, I will not get any money or other benefits that may come from a trial or settlement of this lawsuit. However, I will not be bound by any of the Court’s orders or judgments in this class action lawsuit. I will also keep any rights that I may have to sue Eight Oranges, Inc., Chibaola, Inc., Joanne Hong Bao, and Richard Lam in a separate lawsuit for unpaid wages and benefits.

Signature: _____

Date: _____

Full Legal Name (printed): _____

If you want to be excluded, mail, email, or fax this form, postmarked by **October 21, 2024** to:

Fitapelli & Schaffer, LLP
28 Liberty Street, 30th Floor
New York, New York 10005
info@fslawfirm.com
Facsimile: (212) 481-1333

DO NOT MAIL THIS FORM IF YOU WANT TO STAY IN THE CLASS.



MANGAHAS V EIGHT ORANGES NOTICE ADMINISTRATOR
C/O RUST CONSULTING INC – 8751
PO BOX 2396
FARIBAULT MN 55021-9096

IMPORTANT LEGAL MATERIALS



<<Name1>>
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08

排除申请表

本人特此要求被排除在就未付工资而提起的本集体诉讼之外，即称为 *Mangahas* 等人诉 *Eight Oranges Inc.* 等方的诉讼，案件编号为：22 Civ. 04150 (LJL)。我理解，将我自己排除在外后，我将不会从本诉讼的审判或和解中获得任何金钱或其他利益。但是，我将不受法院就本集体诉讼所发布任何命令或判决的约束。我还将保留我可能拥有的、就未付工资和利益在单独诉讼中起诉 *Eight Oranges, Inc.*、*Chibaola, Inc.*、*Joanne Hong Bao* 和 *Richard Lam* 的任何权利。

签名: _____ 日期: _____

法定全名 (正楷体): _____

如果您想被排除在外，请将本表格邮寄、通过电子邮件发送或传真至以下地址，并在 **2024年10月21日** 之前加盖邮戳：

Fitapelli & Schaffer, LLP
28 Liberty Street, 30th Floor
New York, New York 10005
info@fslawfirm.com
传真: (212) 481-1333

如果您想继续参与集体诉讼，则请勿邮寄此表格。

