

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

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ROBERTO BELLISSIMO, CHRISTOPHER	:	
THIREOS and TARA COHN,	:	
	:	Civil Action No.:
Plaintiffs,	:	
	:	<b><u>CLASS ACTION</u></b>
v.	:	<b><u>COMPLAINT</u></b>
	:	
RANA USA LLC d/b/a RANA PASTIFICIO	:	
& CUCINA, GIAN LUCA RANA,	:	<b><u>DEMAND FOR JURY TRIAL</u></b>
ANTONELLA PATERNÒ RANA and	:	
PASQUALE SORRENTINO, in their individual	:	
and professional capacities,	:	
	:	
Defendants.	:	
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Plaintiffs Roberto Bellissimo, Christopher Thireos and Tara Cohn (together, “Plaintiffs” or “Class Representatives”), on behalf of themselves and all similarly situated persons, by and through undersigned counsel, Wigdor LLP, as and for their Complaint against Defendants Rana USA, LLC d/b/a Rana Pastificio & Cucina (“Rana Pastificio,” or the “Restaurant”), Gian Luca Rana, Antonella Paternò Rana, and Pasquale Sorrentino (together “Defendants”), hereby allege:

**PRELIMINARY STATEMENT**

1. For more than 50 years, Giovanni Rana has been a family-owned and operated pasta maker, based in Italy, that claims to be “Italy’s Most Loved.”
2. In 2012, Giovanni Rana expanded to the United States, establishing a pasta factory in Chicago, Illinois and Rana Pastificio & Cucina, a full-service restaurant, retail shop and pasta market located in Chelsea Market, New York City.
3. Rana Pastificio’s executive officers are composed primarily of Giovanni Rana’s Italian management. It is perhaps not remarkable in itself that an Italian-owned and operated

company would wish to employ some individuals from Italy, or of Italian descent, in the Restaurant. However, Defendants have engaged in an unlawful pattern and practice of making employment decisions, favoring certain employees based upon their Italian ethnicity and national origin, and disfavoring and targeting their non-Italian employees for abuse.

4. For example, Rana Pastificio's Italian management repeatedly expressed a desire to hire more Italian nationals because they "work better" with the Restaurant's Italian management and claimed "it is so much better when we have Italians in the restaurant because Americans don't understand" the way Italians do business.

5. In addition to their unlawful hiring practices, Rana Pastificio's Italian management favors employees of Italian ethnicity and national origin over non-Italian employees by providing them certain benefits and privileges not provided to non-Italian employees.

6. For example, the Restaurant has spent tens of thousands dollars helping Italian employees obtain visas and providing them with vocational training, while that same assistance and training is not offered to non-Italian employees.

7. Anonymous reviews on Glassdoor.com by former and existing employees of Giovanni Rana's U.S. operations highlight the cultural divide that Rana Pastificio's management has created, stating: (1) Giovanni Rana "needs to hire a more qualified upper management group (and not from Italy);" (2) "the company needs to understand the difference in American company culture;" (3) there is a "[l]ack of communication when being managed from another country (Italy);" (4) Giovanni Rana "operate[s] an American business as if it's a European business;" and (5) the "Local Management team is undermined by the Corporate Management which makes a very uncomfortable and hostile environment."

8. Defendant Gian Luca Rana, Chief Executive Officer, is quoted in an article by one of Italy's largest publications as repeating over and over that "I believe in Italy" and "Never mind America. [In Italy] we have creativity, flexibility, we know how to solve our problems."<sup>1</sup>

9. This class action seeks declaratory, injunctive and equitable relief, as well as monetary damages, to redress Defendants' unlawful employment practices, including unlawful discrimination and retaliation, against Plaintiffs in violation of 42 U.S.C. § 1981, the New York State Human Rights Law, N.Y. Executive Law §§ 290 *et seq.* ("NYSHRL"), and the New York City Human Rights Law, New York City Administrative Code §§ 8-101 *et seq.* ("NYCHRL").

### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343, because Plaintiffs' Section 1981 claims arise under the laws of the United States. This Court has supplemental subject matter jurisdiction over Plaintiffs' related State and local law claims pursuant to 28 U.S.C. § 1367(a).

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

### **ADMINISTRATIVE PROCEDURES**

12. Plaintiffs will be filing a Charge of discrimination and retaliation with the Equal Employment Opportunity Commission ("EEOC") alleging violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.* ("Title VII"). The charges arise out

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<sup>1</sup> Maurizo Tortorella, "In Italy there is a dictatorship of the bureaucracy, Gian Luca Rana says" THIS IS ITALY, July 11, 2012, available at <http://www.thisisitaly-panorama.com/business-news/in-italy-there-is-a-dictatorship-of-the-bureaucracy/> (last visited May 11, 2016).

of the same facts alleged herein. Following receipt of a Notice of Right to Sue, Plaintiffs will seek leave to file an Amended Complaint that includes claims under Title VII.

13. Following the commencement of this action, a copy of this Complaint will be served both on the New York City Commission on Human Rights and the Office of the Corporation Counsel of the City of New York, thereby satisfying the notice requirements of the NYCHRL.

14. Any and all other prerequisites to the filing of this suit have been met.

### **PARTIES**

#### **Plaintiffs and Class Representatives**

15. Plaintiff Roberto Bellissimo worked as the Director of Operations for Rana Pastificio from September 2012 until February 24, 2016. Mr. Bellissimo is of Canadian national origin and of partial Italian ethnicity. At all relevant times herein, Mr. Bellissimo met the definition of “employee” under all applicable statutes.

16. Plaintiff Christopher Thireos worked as the Senior Manager for Rana Pastificio from November 2013 until February 24, 2016. Mr. Thireos is a Greek American. At all relevant times herein, Mr. Thireos met the definition of “employee” under all applicable statutes.

17. Plaintiff Tara Cohn worked as the Senior Manager of Catering for Rana Pastificio from March 2014 to May 6, 2016. Ms. Cohn is a Jewish American. At all relevant times herein, Ms. Cohn met the definition of “employee” under all applicable statutes.

#### **Defendants**

18. Defendant Rana USA, LLC d/b/a Rana Pastificio & Cucina is a domestic business corporation organized under the laws of the State of Delaware, with a principal place of business located in New York City. Rana Pastificio is owned and controlled by the Italian company Giovanni Rana and has shared common management Giovanni Rana. At all relevant times

herein, Defendant Rana Pastificio has met the definition of “employer” under all relevant statutes.

19. Defendant Antonella Paternò Rana is the Global Director of Restaurant Operations for Rana Pastificio and Giovanni Rana, and is responsible for Rana Pastificio’s operations. Ms. Rana directly supervised Plaintiffs, and had the authority to discipline and terminate, direct work activities, assign job responsibilities and monitor the performance of Plaintiffs. Ms. Rana participated in the unlawful conduct described herein, and, at all relevant times, Ms. Rana was an “employer” within the meaning of all applicable statutes (*i.e.*, § 1981, the NYSHRL and NYCHRL, and any other relevant statutes providing for individual liability).

20. Defendant Gian Luca Rana is the Chief Executive Officer for Rana Pastificio and Giovanni Rana, and is responsible for Rana Pastificio’s operations. Mr. Rana directly and indirectly supervised Plaintiffs, and had the authority to discipline and terminate, direct work activities, assign job responsibilities and monitor the performance of Plaintiffs. Mr. Rana participated in the unlawful conduct described herein, and, at all relevant times, Mr. Rana was an “employer” within the meaning of all applicable statutes (*i.e.*, § 1981, the NYSHRL and NYCHRL, and any other relevant statutes providing for individual liability).

21. Defendant Pasquale Sorrentino is the Director of Operations Worldwide for Rana Pastificio and Giovanni Rana, and is responsible for Rana Pastificio’s operations. Mr. Sorrentino directly supervised Plaintiffs, and had the authority to discipline and terminate, direct work activities, assign job responsibilities and monitor the performance of Plaintiffs. Mr. Sorrentino participated in the unlawful conduct described herein, and, at all relevant times, Mr. Sorrentino was an “employer” within the meaning of all applicable statutes (*i.e.*, § 1981, the NYSHRL and NYCHRL, and any other relevant statutes providing for individual liability).

**FACTUAL ALLEGATIONS**

22. Rana Pastificio's Italian management has blatantly disregarded this country's civil rights and anti-discrimination laws prohibiting hiring and employment decisions based on ethnicity and national origin.

23. Specifically, Rana Pastificio's Italian management has a policy and practice of making hiring decisions and giving preferential treatment on the basis of employees' Italian (or non-Italian, as the case may be) ethnicity and national origin.

**Unlawful Hiring Practices**

24. Rana Pastificio's Italian management frequently expressed a desire for an increased and higher proportion of Italian employees, and made hiring decisions based on an applicant's ethnicity and national origin.

25. For example, Ms. Rana would expressly inquire with the Restaurant's management as to what the Restaurant was going to do in order to bring more Italian employees into the Restaurant.

26. Mr. Sorrentino, who speaks only Italian, would frequently state that the Restaurant "needs Italians," and "it is so much better when we have Italians in the restaurant because Americans don't understand" the culture of Rana or way Italians do business. Unsurprisingly, Mr. Sorrentino has hired almost exclusively employees of Italian citizenship.

27. The Restaurant's Italian management would regularly portray and extol Italian employees as somehow better than American employees solely by virtue of their national origin.

28. For example, Ms. Rana would say that more guests were brought into the Restaurant when her son and other Italians were outside distributing samples of pasta to the public.

29. As an insult, Mr. Sorrentino would call Italian employees an “idiot American” if they made a mistake, and told Mr. Bellissimo not to be a “stupid American.”

30. In fact, when the Restaurant did hire non-Italian employees, the Italian management would make disparaging remarks about them.

31. For example, during a visit to the Restaurant, Mr. Rana asked Mr. Bellissimo, “How do we have Black people selling pasta?” Mr. Rana then instructed an Italian manager to move a Black employee downstairs and out of the Restaurant customers’ sight.

32. During a recent visit by Italian executives, one executive criticized the cleaning crew, comprised primarily of Black employees of Dominican Republic national origin, and openly stated, “Look at these Black guys—how can we trust these guys?”

33. The Restaurant’s Italian management also has seemingly disregarded U.S. immigration laws in order to hire more Italian employees for the Restaurant.

34. For example, the Restaurant apparently has permitted several Italian nationals to work at the Restaurant without proper authorizations and under aliases, including the Restaurant’s Executive Chef.

35. Maria Elena Cingolina, the Restaurant’s Controller, said openly during a Human Resources (“HR”) meeting, “We know we have many with no papers so we should not say anything.”

### **Unlawful Disparate Treatment**

36. Rana Pastificio’s Italian management has created a culture and engaged in a pattern of conduct that provides better and additional benefits to employees of Italian ethnicity and national origin than employees of non-Italian ethnicity and national origin.

37. For example, non-Italian managers have been written up for drinking at the Restaurant while off-duty, whereas Italian managers regularly drink alcohol on and off duty and have not been written up for doing so. The justification given by management for not writing up the Italian managers for this was that these managers are Italian and away from their home country, somehow entitling them to drink in familiar surroundings.

38. In addition, undesirable shifts or tasks are almost unvaryingly delegated to non-Italian employees, including to Plaintiffs.

39. For example, on or around January 24, 2016, Mr. Bellissimo was required to come into work during a blizzard, despite very hazardous weather and a travel advisory in effect across the city.

40. When there were instances of flooding in the restaurant, including water erupting from the bar and sewer water flooding and backing up into the basement, the Restaurant's Italian management made Mr. Bellissimo and Mr. Thireos (both generally managerial employees) help clean up the feces flooding the basement, or sweep the water overflowing the bar area away from customers who were still dining at tables a few feet away, rather than close the restaurant for a few hours to clean up the putrid mess.

41. This past Super Bowl, Mr. Rana hosted a Super Bowl dinner party to which he only invited the Restaurant's Italian employees. Meanwhile, non-Italian employees were required to prepare the food for their employer's dinner party, to which they were not invited.

42. Stephanie Palumbo, the Event Coordination Manager, who worked under Ms. Cohn, received preferential treatment over Ms. Cohn because she is a dual American-Italian citizen who speaks Italian. This preferential treatment has included being invited to dinner with Giovanni Rana's Chief Operating Officer, Renato Modena, and also to eat at table no. 400 (the



customary gathering place for Italian workers in the southwest corner of the Restaurant's seating area).

43. Mr. Bellissimo was told during a meeting with Giovanni Rana's top management that his merely partial Italian heritage and lack of Italian nationality impeded his ability to advance and be accepted into the inner "owner's circle." As a result, many of Mr. Bellissimo's business and management ideas were not considered by the Italian management, including a renovation project that Mr. Bellissimo presented to Mr. Rana.

44. The Restaurant's Italian management frequently interrupted Ms. Cohn at meetings to speak with Ms. Palumbo in Italian, effectively cutting Ms. Cohn out of the conversation and undermining her position as a senior manager.

45. The Restaurant provides more favorable benefits for Italian employees, including providing Italian employees with additional vocational training and paying for English language classes, while similar benefits are not afforded to the Restaurant's non-Italian employees.

46. In addition, Ms. Cohn and other non-Italian employees were required to wait three months to receive health insurance benefits, while the Restaurant provided such benefits to Italian employees on a relatively expedited basis.

47. The Restaurant's Italian management also protects Italian employees from disciplinary action. For example, Mr. Bellissimo attempted to discuss with Mr. Sorrentino improper behavior by certain Italian employees, such as Ivan Simeoli, who would curse at the service staff and speak in unwelcome sexual innuendos. Mr. Sorrentino dismissed Mr. Bellissimo's concerns.

48. On another occasion, Ms. Rana would not allow an employee who was Sicilian to be terminated, and said, by way of explanation, that she needed to take care of the Sicilians.

**Unlawful Discrimination in Practices Towards Non-Italian Customers**

49. Not only are employees subjected to the discriminatory practices of the Restaurant's Italian management, but these practices also extend to customers, as Defendants give preferential treatment to customers who are of Italian ethnicity and/or national origin.

50. For example, Ms. Rana insisted on adding a feature to the point of sale system so the Company could flag the tables with Italian customers.

51. Mr. Bellissimo advised against this because the intended purpose was to identify Italian customers for preferential treatment based on their ethnicity or national origin, but the feature was implemented over his objections.

52. On another occasion, Ms. Cohn and Mr. Bellissimo were required to move a contracted in-house catered party event to an off-site facility on less than a week's notice, solely because Ms. Rana insisted upon hosting a free after-party for Antonio Monda, an Italian friend of Ms. Rana, at the Restaurant. The non-Italian party that was forced to move cancelled the \$35,000 event because of this forced, last-minute change.

**Plaintiffs are Retaliated Against for Opposing the Restaurant's Discriminatory Practices**

53. Plaintiffs were retaliated against for opposing the discriminatory practices of the Restaurant's Italian management.

54. Mr. Bellissimo and Mr. Thireos both objected to and made it known to the Italian management that they opposed the Restaurant's preferential treatment of Italian employees.

55. However, whenever Mr. Bellissimo and Mr. Thireos would raise complaints, they were met with criticism or dismissiveness.

56. For example, at an HR meeting in February 2016, Mr. Thireos brought up the need to use e-verify to check the work eligibility of new hires due to his concern regarding the

Restaurant's employment of a number of unauthorized workers. This idea was dismissed by the Restaurant's Italian management, and shortly after Mr. Thireos made this suggestion, Mr. Sorrentino asked Mr. Bellissimo, "What's up with Chris?," and told Mr. Bellissimo that Mr. Thireos "should agree with us."

57. Mr. Bellissimo repeatedly expressed his frustration with Ms. Rana over the disparity between the Restaurant's treatment of Italian and non-Italian employees.

58. For example, Mr. Bellissimo repeatedly expressed to Ms. Rana his frustration with his ideas not being given serious consideration unless they were relayed through Italian management. In response to one of these complaints, Ms. Rana laughed and said flatly, "But they are Italian."

59. Mr. Bellissimo also told Ms. Rana that non-Italian employees felt disrespected for not being invited to Mr. Rana's Super Bowl dinner party, even though they were responsible for preparing the food for the event. Ms. Rana's response expressed no concern regarding the differential treatment or feelings of the non-Italian employees.

60. The frequency of Mr. Bellissimo's and Mr. Thireos's complaints and objections to the Restaurant's discriminatory practices toward themselves and other non-Italian employees increased in frequency as they became more and more frustrated with the lack of any response and further discrimination from Defendants.

61. Instead of addressing the complaints and opposition raised by Mr. Bellissimo and Mr. Thireos, Defendants terminated them.

62. On February 24, 2016, Mr. Bellissimo and Mr. Thireos were separately called into the back conference room and, with the door open, informed that they were being terminated.

63. The reasons so far provided for Mr. Bellissimo's and Mr. Thireos's terminations are outrageous and even defamatory pretexts for the Restaurant's discriminatory and retaliatory motives.

64. The Company claimed to have terminated both Mr. Bellissimo and Mr. Thireos because the Company "lost confidence" in them, and claimed that they supposedly violated "Rana policies by misappropriating funds." Mr. Bellissimo and Mr. Thireos conspicuously were not told what it was that they allegedly misappropriated, or how, even though they were told that an investigation had purportedly already been conducted.

65. Defendants' claim of misappropriation against Mr. Bellissimo and Mr. Thireos is unfounded and false and, upon information and belief, has previously been used by the Company as a pretext to terminate other non-Italian managers.

66. The Restaurant's Italian management has spread their unfounded and defamatory termination reasons to third parties with the intent to harm Mr. Bellissimo's and Mr. Thireos's professional and personal reputations.

67. Immediately after the terminations, Italian employees in the accounting office were heard cheering, celebrating and exclaiming "Viva Italia!" and "Thank god there is one less American in this place."

68. The celebration continued later in the Restaurant, where a group of Italians gathered at table no. 400 to celebrate Plaintiffs' terminations.

69. With the firing of Mr. Bellissimo and Mr. Thireos, there are reports that the Restaurant's Italian management is redoubling its efforts to hire more Italian employees.

70. After the terminations, Ms. Cohn joined Mr. Bellissimo and Mr. Thireos in retaining counsel to help redress the Restaurant's discriminatory and retaliatory practices.

71. When the Restaurant's Italian management learned of Ms. Cohn's complaints, they proceeded to make Ms. Cohn's employment conditions so intolerable that she felt compelled to leave the Restaurant.

72. Within weeks of Ms. Cohn's complaint, Mr. Sorrentino made Ms. Cohn provide him with a detailed account of her time spent working at the Restaurant, even though she previously had autonomy in performing her catering and event management responsibilities.

73. Ms. Rana instructed Ms. Cohn to start to "immediately" involve and train Ms. Palumbo to manage the catering events.

74. Mr. Sorrentino reprimanded Ms. Cohn for not attending a weekly management meeting, even though, upon information and belief, Ms. Cohn was intentionally not informed that the meeting location was changed, or that the meeting was happening when she was clearly still working in her office.

75. Mr. Sorrentino also emailed Ms. Cohn that the Restaurant had received unidentified complaints about her "lack of team work" and her "uncollaborated and/or inconsiderate tone." The examples given in the email were filled with misrepresentations, belated and fully addressed at the time without further issue.

76. After Ms. Cohn complained to Ms. Rana about the work ethic of the newly hired Italian catering chef who is frequently absent or late to work, Ms. Rana told Ms. Cohn that she was being rude and disrespectful.

77. Further, when Ms. Palumbo failed to properly prepare for an event, Ms. Cohn was reprimanded for it, even though she had successfully stepped in at the last minute to do the preparations for Ms. Palumbo.

78. Ms. Cohn was told to assign Ms. Palumbo to work on catering events for which Ms. Palumbo would earn the commission. Meanwhile, Ms. Cohn was assigned to work predominantly on non-commission sponsorship or promotional events for Italian clients, Gran Fondo and Casa Italiana. Ms. Cohn's earning capacity and ability to meet her sales targets were negatively affected by this distribution.

79. On May 6, 2016, Ms. Cohn was constructively discharged and she was forced to leave her employment.

80. This instance is not the first time that Defendants retaliated against Ms. Cohn for making a protected complaint.

81. In or about October 2014, Ms. Cohn complained to Ms. Rana and made a formal complaint to the HR Director about the hostile treatment and an inappropriate sexual comment made by the Restaurant's Executive Chef, and shared that she was particularly traumatized by this treatment because she has a history of abusive relationships.

82. Incredibly, the Restaurant, in a written response to Ms. Cohn's complaint, claimed that her audio recording of the incident "raises the bar over violating the company's sexual harassment hostile work environment company policy and federal law."

83. After this complaint, Ms. Rana told Mr. Bellissimo that she thought Ms. Cohn was "clearly ill," a "calculated (sic) bitch," and that they needed to watch out for her.

84. The Restaurant's Italian management also made fun of Ms. Cohn's history of abusive relationships. For example, Ms. Cohn visited the Restaurant after being out of work for surgery on her nose that caused visible bruising on her face. While she was eating lunch, an Italian manager, Flavio Gallota, approached and asked in Italian whether Ms. Cohn's husband had punched her in the face. After making the comment, Mr. Gallota laughed and walked away.

**CLASS ALLEGATIONS**

85. Plaintiffs seek to maintain claims on their own behalf and on behalf of a class of non-Italian employees who have been, are now or will be employed by the Restaurant at any time during the applicable liability or statute of limitations periods, up to and including the date of any judgment in this case (the “Non-Italian Class”).

86. Plaintiffs and the proposed Non-Italian Class have standing to seek such relief because of the adverse effects that Defendants’ unlawful patterns, practices and/or policies have had on them individually and generally.

87. The patterns, practices and/or policies described in this Complaint demonstrate that discrimination and retaliation is not an unusual practice for Defendants; rather, the discriminatory and retaliatory practices described herein are part and parcel of their standard operating patterns, practices and/or policies.

**Numerosity and Impracticality of Joinder**

88. The Non-Italian Class Members are sufficiently numerous to make joinder of all of them impracticable. While the exact number of Non-Italian Class Members is unknown because such information is in the exclusive control of Defendants, upon information and belief, there are at more than 40 prospective, current and former non-Italian employees who have been the victim of discriminatory conduct and adverse employment actions by the Restaurant, in violation of federal, State and local law, because they are not of Italian ethnicity or national origin.

89. Although the number of Non-Italian Class Members is incapable of precise determination at this time, it is significant and satisfies the numerosity requirement of Fed. R. Civ. P. (“FRCP”) 23(a).

**Common Questions of Law and Fact**

90. The claims alleged on behalf of the Non-Italian Class raise questions of law and fact common to the Class. Chief among these questions is whether Defendants: (i) have patterns, practices and/or policies fostering and resulting in systemic unlawful discrimination against non-Italian employees in their terms and conditions of employment; (ii) engaged in a systemic pattern or practice of ethnicity and national origin discrimination in the Restaurant's hiring practices; and (iii) have patterns, practices and/or policies fostering and resulting in adverse actions against employees who complain about Defendants' discriminatory practices.

91. Thus, the common question requirement of FRCP 23(a) is satisfied.

**Typicality of Claims and Relief Sought**

92. The Non-Italian Class Representatives are members of the Class they seek to represent. The claims of the Class Representatives are typical of the claims of the proposed Non-Italian Class in that they all arise from the same unlawful patterns, practices and/or policies of Defendants, and are based on the legal theory that these patterns, practices and/or policies violate legal rights protected by federal, State and local law. The Non-Italian Class Representatives and the Non-Italian Class Members all allege that they each were the victim of unlawful adverse employment decisions made by Defendants because they are not of Italian ethnicity and national origin. The relief Plaintiffs seek for Defendants' unlawful patterns, practices and/or policies is typical of the relief which is sought on behalf of the Non-Italian Class Members.

93. Thus, the typicality requirement of FRCP 23(a) is satisfied.



**Adequacy of Representation**

94. The interests of the Non-Italian Class Representatives are co-extensive with those of the Non-Italian Class Members who they seek to represent in the instant case. The Non-Italian Class Representatives are willing and able to represent the proposed Non-Italian Class fairly and vigorously as they pursue their similar individual claims. The Non-Italian Class Representatives have retained counsel who are qualified and experienced in employment class action litigation and are able to meet the time and fiscal demands necessary to litigate a class action of this size and complexity.

95. The combined interests, experience and resources of the Non-Italian Class Representatives and their counsel to competently litigate the individual and Non-Italian Class claims at issue in the instant case satisfy the adequacy of representation requirement of FRCP 23(a).

**Requirements of Rule 23(b)(2)**

96. Non-Italian Class Representatives seek final injunctive and declaratory relief to remedy and prevent Defendants' discriminatory and retaliatory practices.

97. Defendants acted on grounds, described herein, generally applicable to Plaintiffs and the Non-Italian Class Members, by adopting and following systemic patterns, practices and/or policies that are discriminatory toward non-Italian employees and prospective employees and retaliatory against employees who complain about the discrimination. These discriminatory and retaliatory acts are fostered by Defendants' standard patterns, practices and/or policies and are a result of the preference of Italian management. They are neither sporadic nor isolated, and support the request for final injunctive and declaratory relief with respect to Plaintiffs and the Non-Italian Class as a whole.

98. Declaratory and injunctive relief flows directly and automatically from proof of the common questions of law and facts regarding the existence of systemic discrimination against employees and prospective employees of the Restaurant based on their non-Italian ethnicity and national origin.

99. Declaratory and injunctive relief are the factual and legal predicates for Plaintiffs' and the Non-Italian Class's entitlement to monetary and non-monetary remedies for individual losses caused by, and exemplary purposes necessitated by, such systemic discrimination and retaliation.

100. Accordingly, injunctive and declaratory relief is as appropriate and necessary relief for Plaintiffs and the Non-Italian Class.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(Discrimination in Violation of Section 1981)**  
**(Against all Defendants)**

101. Plaintiffs and the Non-Italian Class hereby repeat, reiterate, and reallege each and every allegation as contained in each of the preceding paragraphs, as if fully set forth herein.

102. By the actions described above, among others, Defendants have discriminated against Plaintiffs and the members of the Non-Italian Class on the basis of their race and/or ethnicity in violation of Section 1981 by denying them the same terms and conditions of employment available to employees who are of Italian race and/or ethnicity, including, but not limited to, subjecting them to disparate working conditions and denying them terms and conditions of employment equal to that of employees who are of Italian race and/or ethnicity.

103. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of Section 1981, Plaintiffs have suffered, and continue to suffer, monetary and/or economic harm, including, but not limited to, loss of future income, compensation and benefits, for which they are entitled to an award of damages.

104. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of Section 1981, Plaintiffs have suffered, and continue to suffer, emotional distress, for which they are entitled to an award of compensatory damages.

105. As a direct and proximate result of Defendants' pattern and practice of unlawful and discriminatory conduct in violation of Section 1981, Plaintiffs and members of the Non-Italian Class have been similarly aggrieved by Defendants' unlawful and discriminatory conduct in violation of Section 1981, such that final injunctive and declaratory relief is appropriate to redress and remedy said unlawful and discriminatory conduct.

106. Defendants' unlawful and discriminatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiffs' and the members of the Non-Italian Class's rights under Section 1981, for which Plaintiffs are entitled to an award of punitive damages.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(Retaliation in Violation of Section 1981)**  
**(Against all Defendants)**

107. Plaintiffs and the Non-Italian Class hereby repeat, reiterate and reallege each and every allegation as contained in each of the preceding paragraphs, as if fully set forth herein.

108. By the actions described above, among others, Defendants retaliated against Plaintiffs and the Non-Italian Class for making protected complaints regarding discrimination on the basis of Italian race and/or ethnicity.

109. As a direct and proximate result of Defendants' pattern and practice of unlawful and retaliatory conduct in violation of Section 1981, Plaintiffs and members of the Non-Italian Class have been similarly aggrieved by Defendants' retaliatory conduct in violation of Section 1981, such that final injunctive and declaratory relief is appropriate to redress and remedy said unlawful and discriminatory conduct.

110. As a direct and proximate result of Defendants' unlawful and retaliatory conduct in violation of Section 1981, Plaintiffs have suffered, and continue to suffer, emotional distress, for which they are entitled to an award of compensatory damages.

111. Defendants' unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiffs' and the members of the Non-Italian Class's rights under Section 1981, for which Plaintiffs are entitled to an award of punitive damages.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**(Discrimination in Violation of the NYCHRL)**  
**(Against all Defendants)**

112. Plaintiffs and the Non-Italian Class hereby repeat, reiterate and reallege each and every allegation as contained in each of the preceding paragraphs, as if fully set forth herein.

113. By the actions described above, among others, Defendants have discriminated against Plaintiffs on the basis of their race and/or ethnicity or national origin in violation of the NYCHRL by denying them the same terms and conditions of employment available to employees who are of Italian race and/or ethnicity and national origin, including, but not limited to, subjecting them to disparate working conditions and denying them terms and conditions of employment equal to that of employees who are of Italian race and/or ethnicity and national origin.

114. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of the NYCHRL, Plaintiffs have suffered, and continue to suffer, monetary and/or economic harm, including, but not limited to, loss of future income, compensation and benefits, for which they are entitled to an award of damages.

115. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of the NYCHRL, Plaintiffs have suffered, and continue to suffer, emotional distress, for which they are entitled to an award of compensatory damages.

116. As a direct and proximate result of Defendants' pattern and practice of unlawful and discriminatory conduct in violation of the NYCHRL, Plaintiffs and members of the Non-Italian Class have been similarly aggrieved by Defendants' unlawful and discriminatory conduct in violation of the NYCHRL, such that final injunctive and declaratory relief is appropriate to redress and remedy said unlawful and discriminatory conduct.

117. Defendants' unlawful and discriminatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiffs' and the members of the Non-Italian Class's rights under Section 1981, for which Plaintiffs are entitled to an award of punitive damages.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**(Retaliation in Violation of the NYCHRL)**  
**(Against all Defendants)**

118. By the actions described above, among others, Defendants retaliated against Plaintiffs and the Non-Italian Class for making protected complaints regarding discrimination on the basis of Italian race and/or ethnicity and national origin.

119. As a direct and proximate result of Defendants' unlawful and retaliatory conduct in violation of the NYCHRL, Plaintiffs have suffered, and continue to suffer, monetary and/or economic harm, including, but not limited to, loss of future income, compensation and benefits, for which they are entitled to an award of damages.

120. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of Section 1981, Plaintiffs have suffered, and continue to suffer, emotional distress, for which they are entitled to an award of compensatory damages.

121. As a direct and proximate result of Defendants' pattern and practice of unlawful and retaliatory conduct in violation of the NYCHRL, Plaintiffs and members of the Non-Italian Class have been similarly aggrieved by Defendants' unlawful and discriminatory conduct in violation of the NYCHRL, such that final injunctive and declaratory relief is appropriate to redress and remedy said unlawful and discriminatory conduct.

122. Defendants' unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiffs' and the members of the Non-Italian Class's rights under Section 1981, for which Plaintiffs are entitled to an award of punitive damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs and the Non-Italian Class pray that the Court enter judgment in their favor and against Defendants, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the United States and the State of New York;

B. An injunction and order permanently restraining Defendants from engaging in such unlawful conduct;

C. An order directing Defendants to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect Plaintiffs' and the Non-Italian Class's employment and professional and personal life;

D. An order directing Defendants to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect Plaintiffs' and the Non-Italian Class's employment and professional and personal life;

E. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiffs for all monetary and/or economic damages, including, but not limited to, the loss of past and future income, wages, compensation, seniority and other benefits of employment;

F. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiffs for all non-monetary and/or compensatory damages;

G. An award of punitive damages;

H. An award of costs that Plaintiffs have incurred in this action, as well as Plaintiffs' reasonable attorneys' fees, to the fullest extent permitted by law; and

I. Such other and further relief as the Court may deem just and proper.


**JURY DEMAND**

Plaintiffs hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: May 18, 2016  
New York, New York

Respectfully submitted,

**WIGDOR LLP**

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