

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SAMUEL SONG, individually and)
on behalf of all others similarly situated,)
)
Plaintiff,)
)
v.)
)
**CHUBBY CATTLE THE INTERLOCK)
ATLANTA LLC, and CHUBBY GROUP,)**
)
Defendants.)

Civil Action No.: _____

Jury Trial Demanded

COLLECTIVE ACTION COMPLAINT

Plaintiff Samuel Song (“Plaintiff”), individually and on behalf of all similarly situated current and former servers employed at Wagyu House Atlanta restaurant by joint employer Defendants Chubby Cattle The Interlock Atlanta LLC (“Defendant Chubby Cattle”) and Chubby Group (collectively, “Defendants”), files this Collective Action Complaint against Defendants and alleges as follows:

I. NATURE OF THE ACTION

1. This is a collective action brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”), to recover unlawfully withheld wages and tips on behalf of Plaintiff and all similarly situated servers employed by Defendants at Wagyu House Atlanta.

2. Beginning September 30, 2024 and continuing through the present, Defendants operated an illegal tip pool that required servers to contribute a percentage of their food and alcohol sales to a tip pool that was distributed, at least in part, to Defendants themselves and to salaried, exempt managers — persons expressly prohibited from participating in a tip pool under the FLSA. As a direct result of this unlawful practice, Plaintiff and similarly situated servers were deprived of substantial tip income to which they were lawfully entitled.

3. Additionally, Defendants applied a tip credit to pay certain servers a sub-minimum wage of \$3.00 per hour. Because the tip pool was illegal, Defendants were prohibited from availing themselves of the tip credit and were required to pay servers the full federal minimum wage. Defendants' application of the tip credit under these circumstances resulted in additional underpayment of wages in violation of the FLSA.

4. Defendants' violations were willful. Plaintiff seeks recovery of all unlawfully withheld tips and wages, an equal amount in liquidated damages, attorneys' fees, costs, and all other relief the Court deems just and proper.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b), as this action arises under the FLSA, a federal statute.

6. Venue is proper in the Northern District of Georgia, Atlanta Division, pursuant to 28 U.S.C. § 1391(b), because Defendants operate their restaurant within this District, and the events and omissions giving rise to the claims occurred within this District.

7. This Court has personal jurisdiction over Defendant Chubby Group because Chubby Group has purposefully availed itself of the privilege of conducting business in the State of Georgia.

8. Chubby Group owns and operates multiple restaurant locations in Georgia, including Wagyu House Atlanta (the restaurant at issue in this action), Chubby Cattle Duluth (Georgia), Chubby Cattle Atlanta (Georgia), and Chubby Cattle Shabu Duluth (Georgia), all of which are advertised and promoted through Chubby Group's corporate website at chubbygroup.com.

9. Chubby Group derives substantial revenue from its Georgia operations and directs the employment and compensation policies applicable to Wagyu House Atlanta employees.

10. The claims asserted in this action arise directly from Chubby Group's activities in and directed toward Georgia. The exercise of personal jurisdiction over Chubby Group in this forum comports with due process and does not offend traditional notions of fair play and substantial justice.

III. PARTIES

11. Plaintiff Samuel Song is an individual residing in the State of Georgia.

12. Plaintiff was an hourly employee of Defendants, working as a server and captain at Wagyu House Atlanta beginning September 30, 2024, and remained employed through approximately the second week of March 2026.

13. Plaintiff's consent to join this action is filed herewith as Exhibit A.

14. Defendant Chubby Cattle is a Georgia limited liability company doing business as Wagyu House Atlanta, a restaurant located at 1042 Northside Drive, Suite 1300, Atlanta, Georgia 30318.

15. At all relevant times, Defendant Chubby Cattle has been an "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d), and has been engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(s).

16. Defendant Chubby Cattle generates annual gross revenues in excess of \$500,000, satisfying the FLSA's enterprise coverage threshold.

17. Defendant Chubby Group (formerly known as Chubby Cattle International) is a United States-based food and beverage holding company that owns, controls, and operates Defendant Chubby Cattle and the Wagyu House Atlanta restaurant brand.

18. Chubby Group's principal place of business is outside the State of Georgia, but Chubby Group regularly transacts business in the State of Georgia.

19. As reflected on its corporate website at chubbygroup.com, Chubby Group owns and operates multiple restaurant locations in the State of Georgia, including Chubby Cattle Duluth (Georgia), Chubby Cattle Atlanta (Georgia), Chubby Cattle Shabu Duluth (Georgia), and Wagyu House Atlanta (Georgia).

20. Chubby Group owners, officers, and employees travel to Georgia to inspect Wagyu House Atlanta restaurant and other restaurants that Chubby Group owns.

21. Chubby Group directs employees from restaurants that it owns and operates outside the State of Georgia to relocate and work at Wagyu House Atlanta restaurant.

22. Chubby Group has therefore purposefully availed itself of the privilege of conducting business in this state and has established substantial, continuous, and systematic contacts with the State of Georgia, such that the exercise of personal jurisdiction over Chubby Group in this Court is reasonable and comports with due process.

23. At all relevant times, Chubby Group owned Defendant Chubby Cattle and controlled the management, employment policies, wage and tip pool practices, and day-to-day operations of Wagyu House Atlanta.

24. Chubby Group operates Wagyu House Atlanta as one of its branded restaurant concepts and lists Wagyu House Atlanta as one of its brands on its corporate website.

25. Chubby Group exercises operational control over Defendant Chubby Cattle by, among other things: (a) setting and directing employment and compensation policies, including the tip pool policies at issue in this action; (b) controlling the branding, marketing, and reservation systems for Wagyu House Atlanta; (c) exercising authority over hiring, staffing, and management decisions; and (d) directing and overseeing the financial operations of Wagyu House Atlanta, including the collection and distribution of tip pool funds.

26. By virtue of this ownership and operational control, Chubby Group is a joint employer of Plaintiff and all similarly situated Collective members within the meaning of the FLSA, 29 U.S.C. § 203(d).

27. At all relevant times, Chubby Group has been an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d), and has been engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(s).

28. As a holding company operating 40 or more restaurant locations nationwide, Chubby Group generates annual gross revenues well in excess of \$500,000, satisfying the FLSA’s enterprise coverage threshold.

IV. FLSA COLLECTIVE ACTION ALLEGATIONS

29. Plaintiff brings this action as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of himself and all similarly situated persons defined as:

All current and former servers and captains, and other tipped employees who contributed to the tip pool, employed by Defendants

Chubby Cattle The Interlock Atlanta LLC and/or Chubby Group at Wagyu House Atlanta restaurant at any time from September 30, 2024 to the entry of any judgment (the "Collective").

30. The members of the Collective are similarly situated because they were all subjected to the same unlawful tip pool policy and, for certain time periods, the same unlawful application of the tip credit, pursuant to Defendants' centralized compensation policies and practices.

31. The number of members of the Collective is sufficiently numerous that joinder of all members is impractical. It is believed that there are over 60 Collective members.

32. The identities of Collective members are ascertainable from Defendants' payroll, tip pool, and employment records.

33. Common questions of law and fact predominate, including: (a) whether Defendants' tip pool required servers to contribute tips to management and/or the restaurant itself; (b) whether Defendants diverted tip pool funds intended for kitchen workers; (c) whether Defendants' tip pool was illegal under the FLSA; (d) whether Defendants unlawfully applied a tip credit in connection with an illegal tip pool; and (e) whether Chubby Group is a joint employer of Plaintiff and Collective members within the meaning of the FLSA.

34. Plaintiff will fairly and adequately represent the interests of the Collective and has retained counsel experienced in FLSA collective action litigation.

35. A collective action is the superior and most efficient means of resolving the claims of all similarly situated employees, as it avoids duplicative proceedings and conserves judicial resources.

V. FACTUAL ALLEGATIONS

A. Defendants' Tip Pool Policy

36. Beginning September 30, 2024 and continuing through the present, Defendants instituted and maintained a mandatory tip pool at Wagyu House Atlanta requiring all servers to contribute a percentage of their food and alcohol sales to a centralized tip pool.

37. Initially, servers were required to contribute 8% of food sales and 10% of alcohol sales to the tip pool. Defendants subsequently increased the mandatory contribution to 9.5% of food sales and 10% of alcohol sales, and later again to 11% of food sales and 10% of alcohol sales.

38. Defendants represented to their servers that the tip pool proceeds they contributed were distributed among the following categories of employees: (1) back-of-house kitchen workers; (2) hostesses; (3) bussers; and (4) food runners.

B. Defendants' Fraudulent Diversion of Tip Pool Funds

39. Defendants' representations about the distribution of tip pool proceeds were false and fraudulent. Specifically, while Defendants claimed to distribute 2% of food and alcohol sales to back-of-house kitchen workers, Defendants did not, in fact, pay

those amounts to the kitchen workers. Instead, Defendants retained some or all of those funds for themselves and for their salaried, exempt managers.

40. Under the FLSA, as amended by the Consolidated Appropriations Act of 2018, employers and their managers and supervisors are expressly prohibited from keeping any portion of employees' tips, regardless of whether the employer takes a tip credit.

41. By diverting tip pool contributions to themselves and to salaried management beginning September 30, 2024 and continuing through the present, Defendants violated this prohibition and operated an unlawful tip pool throughout the entire relevant period.

42. Because Defendants operated an unlawful tip pool, all mandatory tip contributions made by Plaintiff and Collective members from September 30, 2024 through the present must be refunded in full.

C. Unlawful Use of the Tip Credit

43. For some of the period of Plaintiff's employment, Defendants paid Plaintiff and certain Collective members a reduced cash wage of \$3.00 per hour, purporting to avail themselves of the FLSA's tip credit provision, 29 U.S.C. § 203(m), which permits employers to pay tipped employees a sub-minimum cash wage where the employee retains sufficient tips to reach the full minimum wage.

44. For example, during the period September 30, 2024 through October 15, 2024, Plaintiff was paid a tip credit wage of \$3.00 per hour while being required to participate in and contribute tips to the illegal tip pool.

45. An employer may not avail itself of the tip credit if it maintains an illegal tip pool.

46. Because Defendants' tip pool was illegal as of September 30, 2024 — both because it diverted funds to management and the restaurant itself, and because it required servers being paid on a tip credit to contribute to a pool that included non-tipped employees — Defendants were prohibited from applying the tip credit during any period the illegal tip pool was in operation.

47. As a result, Defendants were required to pay Plaintiff and all similarly situated servers who received the \$3.00 tip-credit wage the full applicable federal minimum wage for all hours worked during the period September 30, 2024 through the present. Defendants' failure to do so constitutes an additional, independent violation of the FLSA.

D. Willfulness

48. Defendants' violations of the FLSA were willful within the meaning of 29 U.S.C. § 255(a).

49. Defendants knew, or showed reckless disregard for whether, their tip pool practices violated the FLSA. Among other things, Defendants affirmatively

misrepresented the distribution of tip pool funds to their employees, concealing the fact that they were diverting tip contributions to themselves and to exempt management from September 30, 2024 through the present.

50. Accordingly, the three-year statute of limitations for willful violations applies.

COUNT I
Violation of the FLSA — Unlawful Tip Pool
(29 U.S.C. §§ 203(m)(2)(B), 216(b))

51. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

52. At all relevant times from September 30, 2024 through the present, Defendants were “employers” of Plaintiff and Collective members within the meaning of the FLSA.

53. The FLSA prohibits employers, managers, and supervisors from retaining any portion of employees’ tips.

54. Defendants violated this provision by operating a mandatory tip pool from which they diverted tip contributions to themselves and to salaried, exempt managers beginning September 30, 2024 and continuing through the present.

55. As a direct and proximate result of Defendants’ unlawful tip pool, Plaintiff and Collective members were deprived of substantial tip income to which they were lawfully entitled from September 30, 2024 through the present.

56. Defendants' violations were willful. Plaintiff and Collective members are therefore entitled to recover all unlawfully withheld tips, an equal amount in liquidated damages, and reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

COUNT II
Violation of the FLSA — Unlawful Tip Credit
(29 U.S.C. §§ 203(m), 206, 216(b))

57. Plaintiff realleges and incorporates by reference paragraphs Nos. 1-50 as if fully set forth herein.

58. During some of the period September 30, 2024 through the present, Defendants paid Plaintiff and certain Collective members a sub-minimum cash wage of \$3.00 per hour by purporting to apply the FLSA's tip credit.

59. The tip credit is unavailable to any employer that maintains an unlawful tip pool.

60. Because Defendants operated an unlawful tip pool beginning September 30, 2024, Defendants were ineligible to claim the tip credit from the very outset of Plaintiff's employment and were required to pay all servers the full federal minimum wage for all hours worked during that period.

61. By paying servers \$3.00 per hour, while simultaneously maintaining an unlawful tip pool, Defendants violated the FLSA's minimum wage provisions, 29 U.S.C. § 206.

62. Defendants' violations were willful.

63. Plaintiff and all Collective members paid pursuant to the tip credit are entitled to recover the difference between \$3.00 per hour and the applicable federal minimum wage of \$7.25 for all hours worked during September 30, 2024 through the present, an equal amount in liquidated damages, and reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Samuel Song, individually and on behalf of all similarly situated Collective members, respectfully requests a trial by jury and that this Court:

a. Conditionally certify this action as a collective action pursuant to 29 U.S.C. § 216(b) and authorize notice to be issued to all similarly situated current and former servers, captains, and other tipped employees who contributed to the tip pool and were employed by Defendants from September 30, 2024 through the present;

b. Find and declare that Defendants were joint employers of Plaintiff and the Collective members;

c. Find and declare that Defendants' tip pool practices, beginning September 30, 2024 and continuing through the present, violated the FLSA;

d. Find and declare that Defendants' application of the tip credit in connection with an illegal tip pool violated the FLSA;

e. Award Plaintiff and Collective members all unlawfully withheld tips and wages from September 30, 2024 through the present;

f. Award Plaintiff and Collective members an equal amount in liquidated damages pursuant to 29 U.S.C. § 216(b);

g. Award Plaintiff and Collective members reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b);

h. Award pre- and post-judgment interest as permitted by law; and

i. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 23rd day of March 2026.

HALL & LAMPROS, LLP

/s/Christopher B. Hall

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