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Restaurant workers sue, alleging low wages, stolen tips

Twelve former workers at Indus Valley, the restaurant on Broadway and 100th Street, allege in a lawsuit that they were mistreated, paid little, and had their tips stolen.

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Silvano Caballero's first job in the United States was as a delivery worker for Indus Valley, a popular local Indian restaurant. For five years, he biked around the Upper West Side eight hours a day, six days a week, bringing food to apartments, businesses, and dormitories.

He was paid $120 a week, or roughly $2.35 an hour.

"It's a hard job," Caballero said on Monday through a translator. "You're working out in the streets all the time. Sometimes you get sent on a delivery with only one delivery, and you may or may not get a good tip."

Then, one day last year, Caballero showed up five minutes late to work and found that he no longer had a job.

"I showed up a few minutes late and Bobby told me, 'You're late—go home,'" he said.

Caballero and 11 other former delivery workers and dishwashers are suing Indus Valley, on Broadway and 100th Street, for a host of labor rights violations. They have accused the restaurant of failing to pay them minimum wage and overtime, keeping some of their tips, and verbally and physically mistreating them.

"It does take some bravery and courage to sue your boss," Caballero said. "But that courage came to me when they paid me $20 a day [and] hit me."

The lawsuit was filed with the New York Southern District Court in August 2011, although a trial date has not yet been set. While the defendants tried to get the case thrown out, it is "still moving full speed ahead," according to a statement from the former employees' law firm.

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The popularity of the restaurant among Columbia students has also spurred some of them to take action, handing out leaflets to passersby in front of the restaurant.

"This will not be tolerated," said Evan Burger, CC '13 and a leader of Student-Worker Solidarity. "Everybody in the neighborhood has to know about this. It's a huge deal."

A manager at Indus Valley, who gave his name as Bobby, said that he wasn't aware of any lawsuit. The man who Caballero said fired him—Harjeet "Bobby" Singh, a manager at the restaurant—is mentioned as a defendant in the original complaint.

The owners—brothers Lakhvir "Billa" and Phunam Singh, of no relation to Harjeet Singh—were not available for comment this week.

Eleutario Calixto, another former delivery worker involved with the lawsuit, said that the employees are suing "to stop the mistreatment and abuse not only for ourselves, but for other immigrant workers."

"They should treat everyone with at least some respect," he said.

According to court documents filed by the plaintiffs, Indus Valley has paid delivery workers between $125 and $150 a week for between 42 and 48 hours of work, which translates to wages between $2.35 and $2.57 an hour. Dishwashers were paid $350 a week for 72 hours of work, or $4.86 per hour.

New York State's minimum wage is $7.25 per hour, and state law requires overtime pay for over 40 hours per week. Caballero and Calixto both said they didn't know at the time that they were being paid below minimum wage.

The workers also say that restaurant management took 15 percent of tips from orders made through online services like GrubHub and Seamless, as well as entire tips on large orders made by credit card. Customers would say that they left a tip, and when delivery workers got back to the restaurant, owners would say they didn't. Calixto said that once, when a group of Columbia students made a $900 food order, the owners kept the entire tip.

And on at least two occasions, Caballero said, managers hit him.

"I was coming in by the door of the kitchen, a plate fell, and after the plate fell, Billa came and slapped me on both sides of the face," he said.

Another time, Caballero said, an assistant manager, Naresh Malhotra, "got mad when I didn't work as fast as he wanted me to, and that's when he slapped me."

Workers also say that they were verbally abused.

"They would yell at you to work faster, and tell you if you don't work faster, they'll send you home," Calixto said. Managers would refer to workers as "dogs" and "malaka," a Greek expletive, Caballero said.

"When that happens, we felt sad, because we're there to work—we can't leave," Caballero said. "And if we leave the job, how is our family in Mexico going to eat?"

This isn't the first time that the restaurant's owners have run into labor issues. Phunam Singh was a defendant in a 2008 case in which another restaurant was accused of paying below minimum wage, not paying for overtime, and withholding tips. The case was later settled out of court.

Indus Valley has also been the subject of a New York Department of Labor investigation since 2008. Lawrence Breen, a department investigator, declined to comment on the case.

According to Caballero, Lakhvir Singh told workers to "leave, go out through the basement" when state investigators visited in 2010.

"I did, I did what he told me to do," he said, "I knew it was someone from a state agency, because my coworker told me when the department came, they would tell us to leave through the basement."

Illegal labor practices are not uncommon in the restaurant industry, which

experiences a high employee turnover. Local activists from the Justice Will Be Served! campaign have been trying to convince Upper West Side and Morningside Heights businesses to sign a pledge not to practice sweatshop labor, sometimes passing out fliers at Columbia.

Calixto said he just wants due compensation and respect.

"They think that because you're not from here, you're nothing," he said. "And because you're not from here, you don't have rights."

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