

# Disparities in Head Chefs' Roles Led to Opposite Results in Lawsuit

Hospitality Law

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**Adriana S. Kosovych**, an Associate in the Employment, Labor & Workforce Management practice, in the firm's New York office, authored an article in *Hospitality Law*, titled "Disparities in Head Chefs' Roles Led to Opposite Results in Lawsuit."

Following is an excerpt (see below to download the full article in PDF format):

A New York federal court recently analyzed the job duties of two head chefs at competing branch restaurants of an upscale gourmet burger chain, to find that only one of them had all of the necessary ingredients to be properly classified as a bona fide executive exempt from the overtime pay requirements under the Fair Labor Standards Act and New York Labor Law.

In *Tamayo et ano. v. DHR Restaurant Co. LLC d/b/a Rare Bar & Grill et al.*, No. 14-CV-9633 (S.D.N.Y. 02/03/2017) employees Francisco Garcia Tamayo and Norberto Farciert sued DHR Restaurant Co., LLC and Rare Chelsea Restaurant Group — the entities that own and operate two Rare Bar & Grill locations in New York City where Garcia and Farciert worked — claiming they were misclassified as exempt and asserting claims for overtime pay under the FLSA and NYLL, as well as spread of hours pay, for the 72 to 80 hours minimum they worked per week. After Rare moved for summary judgment on the grounds that Garcia and Farciert were bona fide exempt executives, the court applied the same four-pronged legal standard to both plaintiffs but reached opposite conclusions with respect to each.

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