

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

<b>THOMAS E. PEREZ</b> , Secretary of Labor,	)	
United States Department of Labor,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION
v.	)	
	)	Case No.
<b>GREAT LAKES HARVESTER</b>	)	
<b>CORPORATION</b> , a Michigan	)	
corporation, and <b>MIGUEL ROSALES RUIZ</b> ,	)	
an individual	)	
	)	
Defendants.	)	

**COMPLAINT**

Plaintiff, **THOMAS E. PEREZ**, Secretary of Labor, United States Department of Labor, brings this action to enjoin and restrain defendants **GREAT LAKES HARVESTER CORPORATION**, a Michigan corporation, and **MIGUEL ROSALES RUIZ**, an individual, (hereinafter collectively “defendants”), from violating the provisions of sections 6, 7, 11, and 15 of the Fair Labor Standards Act of 1938, as Amended (29 U.S.C. § 201 *et seq.*) (the “FLSA”), pursuant to section 17 of the FLSA; and to recover unpaid minimum wage and overtime compensation owing to defendants’ employees together with an equal amount as liquidated damages, pursuant to section 16(c) of the Act; and to enjoin defendants from violating the provisions of sections 201, 202, 301, and 302 of the Migrant and Seasonal Agricultural Worker Protection Act, as amended (29 U.S.C. § 1801, *et seq.*) (the “MSPA”), pursuant to section 502(a) of the MSPA.

**COUNT ONE – FLSA VIOLATIONS**

**I**

Jurisdiction of this action is conferred upon the Court by sections 16(c) and 17 of the FLSA and 28 U.S.C. § 1345.

**II**

**A.** Defendant, **GREAT LAKES HARVESTER CORPORATION**, is and, at all times hereinafter mentioned, was a Michigan corporation with an office and a place of business directly adjacent to Piedt Farms, which is located at 7373 E. Main, Eau Claire, Michigan 49111, Berrien County, within the jurisdiction of this Court, and is and, at all times hereinafter mentioned, was engaged in the business of processing and packing watermelons and in the performance of related types of activities.

**B.** Defendant, **MIGUEL ROSALES RUIZ**, an individual, is the sole owner of the defendant corporation. At all times hereinafter mentioned, **MIGUEL ROSALES RUIZ** was engaged in business within Berrien County directly adjacent to Piedt Farms, which is located at 7373 E. Main, Eau Claire, Michigan 49111, acting directly or indirectly in the interest of the company defendant in relation to its employees by paying employees, setting pay and hours, and giving directions to employees and is an employer within the meaning of section 3(d) of the Act.

**III**

**GREAT LAKES HARVESTER CORPORATION**, is and, at all times hereinafter mentioned, was engaged in related activities performed through unified operation or common control for a common business purpose, and is and, at all times hereinafter mentioned, was an enterprise within the meaning of section 3(r) of the Act.

#### IV

At all times hereinafter mentioned defendant **GREAT LAKES HARVESTER CORPORATION** employed many employees in and about the aforesaid place of business in processing and packing watermelons and in the performance of related types of activities, including the shipment and distribution of goods to points outside the State of Michigan. Such goods include watermelons shipped for sale in other States, including Illinois, Tennessee, and Florida.

#### V

Defendants repeatedly violated the provisions of sections 6 and 15(a)(2) of the FLSA by paying employees wages at a rate of less than \$7.25 per hour in workweeks when said employees were engaged in commerce and in the production of goods for commerce or were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, as aforesaid for all hours worked. The violations were the result, in part, of defendants paying employees on a piece rate basis, which in some workweeks was less than the statutory minimum for each hour worked.

#### VI

Defendants repeatedly violated the provisions of sections 7 and 15(a)(2) of the Act, by employing employees who in workweeks were engaged in commerce or in the production of goods for commerce, or who were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, as aforesaid, for workweeks longer than forty (40) hours without compensating said employees for their employment in excess of forty (40) hours per week during such workweeks at rates not less than one and one-half times the regular rate at which they were employed. The violations were the result, in part,

of defendants paying employees on a piece rate basis, which in some workweeks was less than the statutory overtime premium for each hour worked in excess of forty (40) hours per week.

## VII

Defendants, employers subject to the provisions of the Act, repeatedly violated the provisions of sections 11(c) and 15(a)(5) of the FLSA in that they failed to make, keep, and preserve adequate and accurate records of employees and the wages, hours and other conditions and practices of employment maintained by them as prescribed by regulations duly issued pursuant to authority granted in the FLSA and found in 29 C.F.R. Part 516, in that records fail to show adequately and accurately, among other things, the hours worked each workday and the total hours worked each workweek with respect to employees and the regular rates at which they were employed.

## VIII

During the period since August 16, 2013, defendants have repeatedly violated the provisions of the FLSA as set forth above. A judgment that enjoins and restrains such violations and includes the restraint of any withholding of payment of unpaid minimum wage and overtime compensation found by the court to be due to present and former employees under the FLSA is expressly authorized by section 17 of the Act.

**WHEREFORE**, cause having been shown, plaintiff prays for judgment against defendants as follows:

**A.** For an Order pursuant to section 17 of the Act, permanently enjoining and restraining the defendants, their officers, agents servants, employees, and those persons in active concert or participation with them from prospectively violating the Act; and

**B.** For an Order:

1. pursuant to section 16(c) of the Act, finding defendants liable for unpaid minimum wage and overtime compensation due defendants' employees and for liquidated damages equal in amount to the unpaid compensation found due their employees listed in the attached Exhibit A (additional back wages and liquidated damages may be owed to certain employees presently unknown to plaintiff for the period covered by this complaint); or, in the event liquidated damages are not awarded,

2. pursuant to section 17, enjoining and restraining the defendants, their officers, agents, servants, employees, and those persons in active concert or participation with defendants, from withholding payment of unpaid minimum wage and overtime compensation found to be due their employees and pre-judgment interest computed at the underpayment rate established by the Secretary of the Treasury, pursuant to 26 U.S.C. § 6621;

C. For an Order awarding plaintiff the costs of this action; and

D. For an Order granting such other and further relief as may be necessary and appropriate.

## **COUNT TWO – MSPA VIOLATIONS**

### **IX**

Jurisdiction of this action is conferred upon the court by section 502(a) of the MSPA, 29 U.S.C. § 1852(a); and 28 U.S.C. § 1345.

### **X**

A. Defendant, **GREAT LAKES HARVESTER CORPORATION**, is and, at all times hereinafter mentioned, was a Michigan corporation with an office and a place of business directly adjacent to Piedt Farms, which is located at 7373 E. Main, Eau Claire, Michigan 49111,

Berrien County, within the jurisdiction of this Court, and is and, at all times hereinafter mentioned, was engaged in the business of processing and packing watermelons and in the performance of related types of activities.

**B.** Defendant, **MIGUEL ROSALES RUIZ**, an individual, is the sole owner of the defendant corporation. At all times hereinafter mentioned, **MIGUEL ROSALES RUIZ** was engaged in business within Berrien County located directly adjacent to Piedt Farms, which is located at 7373 E. Main, Eau Claire, Michigan 49111.

**C.** Defendant, **MIGUEL ROSALES RUIZ**, at all times hereinafter mentioned engaged in the farm labor contracting activities of furnishing, recruiting, soliciting, hiring, and employing migrant and seasonal agricultural workers within the meaning of section 3(7) of the MSPA and is a farm labor contractor within the meaning of section 3(6) of the MSPA.

## **XI**

Since at least August 16, 2013, defendants repeatedly violated the provisions of the MSPA as set forth below:

**A.** Defendants failed to disclose, in writing, the information required by section 201(a) of the MSPA to migrant agricultural workers they employed;

**B.** Defendants failed to provide an itemized written statement to migrant agricultural workers containing the information required by section 201(d)(1) of the MSPA;

**C.** Defendants failed to pay wages when due to migrant agricultural workers they employed, as required by section 202(a) of the MSPA;

**D.** Defendants failed to disclose, in writing, the information required by section 301(a) of the MSPA to seasonal agricultural workers they employed;

**E.** Defendants they failed to provide an itemized written statement in writing to seasonal agricultural workers the information required by section 301(d)(1) of the MSPA; and

**F.** Defendants failed to pay wages when due to seasonal agricultural workers they employed, as required by section 302(a) of the MSPA.

## **XII**

By the notice dated August 4, 2014 (attached hereto as Exhibit B), pursuant to section 503(a) of the MSPA, and in accordance with 29 C.F.R. Part 500, the Administrator, Wage and Hour Division, United States Department of Labor (“Administrator”) assessed defendants civil money penalties totaling \$7,300.00 for violations of the MSPA described in paragraph XI above. Defendants failed to take a timely exception to these civil money penalties, therefore, the determination of the Administrator became a final and non-appealable order of the Secretary of Labor on September 9, 2014, pursuant to section 503(b)(1), as described in the notice dated September 24, 2014 (attached hereto as Exhibit C). Defendants paid the civil money penalties in full on October 14, 2014.

## **XIII**

During the period since at least August 16, 2013, defendants have repeatedly violated the aforesaid provisions of the MSPA. A judgment enjoining and restraining such violations is expressly authorized by section 502(a) of the MSPA.

## **XIV**

### **PRAYER FOR RELIEF**

**WHEREFORE**, causing having been shown, Plaintiff prays for

(a) Judgment against defendants, pursuant to section 502(a) of the MSPA, permanently enjoining and restraining defendants, their agents, servants, employees, and those

persons in active concert or participation with them, from violating the provisions of sections 201, 202, 301, and 302 of the MSPA;

- (b) For an Order awarding Plaintiff the costs of this action; and
- (c) For such other and further relief as may be necessary and appropriate.

**M. PATRICIA SMITH**  
Solicitor of Labor

**CHRISTINE Z. HERI**  
Regional Solicitor

P.O. ADDRESS:

Office of the Solicitor  
U.S. Department of Labor  
230 S. Dearborn St., Room 844  
Chicago, Illinois 60604  
Telephone No.: 312/353-6973  
Fax No.: 312/353-5698  
E-mail: [wilemon.kevin@dol.gov](mailto:wilemon.kevin@dol.gov)

s/ Kevin M. Wilemon  
**KEVIN M. WILEMON**  
Trial Attorney

Attorneys for **THOMAS E. PEREZ**,  
Secretary of Labor, United States  
Department of Labor, Plaintiff

Local Counsel:  
**PATRICK A. MILES, JR.**  
United States Attorney

s/ W. Francesca Ferguson  
**W. FRANCESCA FERGUSON**  
Assistant U.S. Attorney  
330 Ionia NW, 5th Floor  
PO Box 208  
Grand Rapids, MI 49501-0208  
(616) 456-2404, ext. 12020  
Fax: (616) 456-2510  
[francesca.ferguson@usdoj.gov](mailto:francesca.ferguson@usdoj.gov)

**Exhibit A**

Enserdo Arce  
Colin Brown  
Nicolas Calles  
Lance Casalleno  
Julio Corona  
Alcuter David  
Sergio Garcia  
Jose Gasca  
Enrique Gomez  
Francisca Gomez  
Luis Gutierrez  
Israel Guzman  
Armando Hernandez  
Katy Hernandez  
Maurio Hernandez  
Tiofina Hernandez  
Celia Johnson  
Christina Lara  
Roel Lopez  
Benita Luna  
Wilbur McCoy  
Juan Mejia  
Blanca Melendez  
Manuel Miranda  
Lucrasia Palmaque  
Erica Ramirez  
Angelica Rivera  
Jose Rodriguez  
Carlos Rosales  
Pablo Torres  
Alberto Valsco  
Julian Velasquez  
Lance Wright

U.S. Department of Labor

Wage and Hour Division  
800 Monroe Avenue NW  
Suite 315



Grand Rapids, MI 49503-1451  
616-456-2004  
616-456-2258

August 04, 2014

RETURN RECEIPT REQUESTED: 7013 2250 0001 6507 2386

FILE COPY

Great Lakes Harvester Corp.  
Miguel R. Rosales Ruiz, FLC  
3160 Cedar Lane  
Sodus, MI 49126

Subject: Assessment of Civil Money Penalty for MSPA Violations  
against Miguel R. Rosales Ruiz, FLC dba Great Lakes Harvester Corp. and Miguel R. Rosales Ruiz, an individual

Case File No.: 1706137

Dear Mr. Rosales Ruiz:

An investigation of your operation under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) covering the period 08/19/2013 to 09/06/2013 disclosed that you failed to comply with the Act. As a result of these violations and pursuant to Section 503(a) of the Act and 29 CFR Part 500, a civil money penalty is hereby assessed. The specific violation(s) and the amount assessed for the violation(s) is set forth on the attached.

The total civil money penalty assessed is \$7,300.00.

The amount is due and payable within 30 days to "Wage and Hour Division, U.S. Department of Labor". Payment by certified check or money order should be mailed to Midwest Regional Office, U.S. Dept. of Labor, W&H Division, P.O. Box 2638, Chicago, IL 60690-2638. The fact that a penalty is being assessed for the MSPA violations found at this time does not preclude the taking of other enforcement action as is deemed appropriate by the Department of Labor, or the additional assessment of a penalty for violations of the MSPA provisions found at some future time.

This debt is subject to the assessment of interest, administrative cost charges and penalties in accordance with the Debt Collection Act of 1995 and departmental policies. Interest will be assessed at the Treasury Tax and loan account rate on any principle that becomes delinquent. This rate is currently 1 %. Administrative cost charges will be assessed to help defray the Government's cost of collecting this debt. A penalty at the rate of 6 % will be assessed on any portion of the debt remaining delinquent for more than 90 days. In order to avoid these charges, forward payment to the Regional Office listed above by the indicated due date.

You have the right to request a hearing on the determination that any or all of the violations occurred. Such request must be in writing; must contain specific reasons why you believe that the violations for which you have been charged did not occur; and must be filed within 30 days from the date of this letter with the Administrator, Wage and Hour Division, U.S. Department of Labor, in care of the originator of this letter at the address listed in the letterhead above.

Procedure for filing a request for a hearing is provided in 29 CFR 500.212. **If a request for a hearing is not received within the time specified, the determination of the Administrator shall become the final and non-appealable Order of the Secretary.**

We would like to call to your attention that when a request for a hearing is filed with the Wage and Hour Administrator, the matter is referred to the Chief Administrative Law Judge. A formal hearing is then scheduled for a final determination with respect to the alleged violation(s). At such hearing you may, by yourself or through an attorney retained by you, present such witnesses, introduce such evidence and establish such facts as you believe will support your position.

Copies of the Migrant and Seasonal Agricultural Worker Protection Act and 29 CFR Part 500 are enclosed for your reference and assistance, along with a copy of the notice of Pending Application for a Farm Labor Contractor Certificate of Registration and an updated WH-56 Summary of Unpaid Wages.

Further, we wish to point out that there may be a question as to the deductibility of civil money penalties paid as a business expense under the Internal Revenue Code. In this regard, you may wish to contact the Internal Revenue Service.

If you need additional information, please contact me.

Sincerely,

  
Mary K. O'Rourke  
District Director  
Grand Rapids District Office

Enclosure: 29 CFR Part 500  
Migrant and Seasonal Agricultural Worker Protection Act (MSPA)  
Notice of Pending Application for a Farm Labor Contractor Certificate of Registration  
WH-56 Summary of Unpaid Wages

U.S. Department of Labor  
Wage and Hour Division

Case ID: 1706137  
ACT: MSPA  
EIN: 26-4367513

Trade Name: Great Lakes Harvester Corp.  
ER Address: 3160 Cedar Lane  
Sodus, MI 49126

Amount Due: \$7,300.00

**THIS SHEET MUST BE INCLUDED WITH PAYMENT**

**YOU MUST WRITE YOUR TAX ID ON YOUR CHECK**

MAIL TO:

Midwest Regional Office  
U.S. Dept. of Labor, W&H Division  
P.O. Box 2638  
Chicago, IL 60690-2638

AMOUNT PAID: \$ \_\_\_\_\_

-- Regional Office Copy --

List of Violations and Amounts Assessed

1.	01 Fail to disclose conditions to workers	\$1000
2.	02 Fail to post MSPA poster at worksite	\$0
3.	05 Fail to make/keep employer records	\$0
4.	06 Fail to provide wage statement to workers	\$5000
5.	07 Fail to provide records	\$100
6.	09 Fail to pay wages when due	\$200
7.	09 Fail to pay wages when due	\$200
8.	09 Fail to pay wages when due	\$200
9.	09 Fail to pay wages when due	\$200
10.	09 Fail to pay wages when due	\$200
11.	09 Fail to pay wages when due	\$200
12.	20 Fail to register employee	\$0

U.S. Department of Labor  
Wage and Hour Division

Case ID: 1706137  
ACT: MSPA  
EIN: 26-4367513

Trade Name: Great Lakes Harvester Corp.  
ER Address: 3160 Cedar Lane  
Sodus, MI 49126

Amount Due: \$7,300.00

=====

YOU MUST RETURN THIS SHEET TO THE ASSESSING OFFICE

=====

MAIL TO:

Grand Rapids MI District Office  
800 Monroe Avenue NW  
Suite 315  
Grand Rapids, MI 49503-1451

AMOUNT PAID: \$ \_\_\_\_\_

DATE OF PMT: \_\_\_\_\_

CHECK NO. \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

-- District Office Copy --

**U.S. Department of Labor**

Wage and Hour Division  
800 Monroe Avenue NW  
Suite 315



Grand Rapids, MI 49503-1451  
616-456-2004  
616-456-2258

September 24, 2014

Via regular and certified mail RETURN RECEIPT REQUESTED: 7013 2250 0001 6507 2423

Great Lakes Harvester Corp.  
Miguel R. Rosales Ruiz, FLC  
3160 Cedar Lane  
Sodus, MI 49126

FILE COPY

Subject: Assessment of Civil Money Penalty for MSPA Violations against Miguel R. Rosales Ruiz (FLC) dba Great Lakes Harvester Corp. and Miguel R. Rosales Ruiz, an individual

Case File No.: 1706137

Dear Mr. Rosales Ruiz:

This is in reference to the recent investigation of your firm under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

We notified you by letter dated August 4, 2014 of a civil money penalty assessment in the amount of \$7,300.00. **You have failed to take timely exception to this penalty, therefore, the determination of the Administrator became a final and non-appealable Order of the Secretary of Labor on September 9, 2014.** The amount of penalty is due immediately to "Wage and Hour Division, U.S. Department of Labor."

Payment by certified check or money order shall be delivered or mailed to Midwest Regional Office, U.S. Dept. of Labor, W&H Division, P.O. Box 2638, Chicago, IL 60690-2638.

As you were advised in the assessment letter this debt is subject to the assessment of interest, administrative charges, and penalties in accordance with the Debt Collection Act of 1982 and departmental policies. Interest is accruing at the current Treasury rate of 1%. Failure to remit payment to the above address within 30 days will result in the assessment of regular interest at this rate. Penalty interest at the rate of 6% will be assessed on any portion of the debt remaining delinquent for more than 90 days. At this point this case is being referred to the Regional Office for appropriate collection action.

Sincerely,

  
Mary K. O'Rourke  
District Director  
Grand Rapids District Office

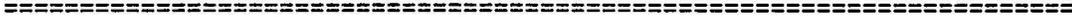
U.S. Department of Labor  
Wage and Hour Division

Case ID: 1706137  
ACT: MSPA  
EIN: 26-4367513

Trade Name: Great Lakes Harvester Corp.  
ER Address: 3160 Cedar Lane  
Sodus, MI 49126

Amount Due: \$7,300.00

YOU MUST RETURN THIS SHEET TO THE ASSESSING OFFICE



MAIL TO:

Grand Rapids MI District Office  
800 Monroe Avenue NW  
Suite 315  
Grand Rapids, MI 49503-1451

AMOUNT PAID: \$ \_\_\_\_\_

DATE OF PMT: \_\_\_\_\_

CHECK NO. \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

-- District Office Copy --

U.S. Department of Labor  
Wage and Hour Division

Case ID: 1706137  
ACT: MSPA  
EIN: 26-4367513

Trade Name: Great Lakes Harvester Corp.  
ER Address: 3160 Cedar Lane  
Sodus, MI 49126

Amount Due: \$7,300.00

**THIS SHEET MUST BE INCLUDED WITH PAYMENT**  
**YOU MUST WRITE YOUR TAX ID ON YOUR CHECK**

MAIL TO:

Midwest Regional Office  
U.S. Dept. of Labor, W&H Division  
P.O. Box 2638  
Chicago, IL 60690-2638

AMOUNT PAID: \$ \_\_\_\_\_

-- Regional Office Copy --