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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

<p>THOMAS E. PEREZ, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,</p> <p>PLAINTIFF,</p> <p>v.</p> <p>LYLE JEFFS, individually; DALE BARLOW, individually; and THE FUNDAMENTALIST CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, incorporated and doing business as and acting through the CORPORATION OF THE PRESIDING BISHOP OF THE FUNDAMENTALIST CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS and THE CORPORATION OF THE PRESIDENT OF THE</p>	<p>Civil Action No. 2:15-cv-00643 JNP</p> <p>COMPLAINT</p> <p>Judge Jill N. Parrish</p>
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FUNDAMENTALIST CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, DEFENDANTS.	
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Plaintiff, Thomas E. Perez, Secretary, United States Department of Labor, brings this action under Section 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201-219 (“FLSA” or “the Act”) to enjoin Defendants from violating the provisions of sections 6, 7, 11, 12, and 15 of the FLSA, 29 U.S.C. §§ 206, 207, 211, 212, & 215, and to restrain Defendants from withholding payment of minimum wage and overtime compensation due Defendants’ employees for the period of time between January 1, 2012, through December 31, 2013, together with prejudgment interest. In support thereof, Plaintiff states as follows:

I. THE PARTIES

1. Plaintiff Thomas E. Perez is the Secretary of Labor, United States Department of Labor, and is authorized to enforce the provisions of the FLSA, and to recover back wages and seek injunctive relief on behalf of employees employed in violation of the FLSA’s child labor, minimum wage, overtime, and record keeping provisions. 29 U.S.C. §§ 206, 207, 211(c), 215(a)(2), 215(a)(5), and 217.

2. Defendant Lyle Jeffs (“Jeffs”), an individual, is commonly known and referred to as the Bishop of the Fundamentalist Church of Jesus Christ of Latter-Day Saints (“the Church” or “FLDS Church”). At all times relevant hereto, Jeffs was an employee and agent of the FLDS Church, which is incorporated as the Corporation of the Presiding Bishop of the Fundamentalist Church of Jesus Christ of Latter-Day Saints (“Corporation of the Presiding Bishop”) and the Corporation of the President of the Fundamentalist Church of Jesus Christ of Latter-Day Saints

(“Corporation of the President”). Jeffs’ last known address is 780 Maple Street, Hildale, UT 84737,¹ within the jurisdiction of this Court. Jeffs acts directly or indirectly in the interest of Defendants Corporation of the Presiding Bishop’s and Corporation of the President’s employees by suffering or permitting them to work and making managerial and strategic decisions affecting employees, including, among other things, employee schedules, job duties, and compensation. Jeffs is an employer as defined in Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

3. Defendant Dale Barlow (“Barlow”), an individual, was at all times relevant hereto an employee of the FLDS Church, an employee of Paragon Contractors Corporation (“Paragon”),² and an individual employer as defined in Section 3(d) of the FLSA, 29 U.S.C. § 203(d). Upon information and belief, Barlow resides in a mobile home in Roosevelt, Utah, within the jurisdiction of this Court. Barlow acts directly or indirectly in the interest of Defendants in relation to their employees by suffering or permitting them to work and making managerial and strategic decisions affecting employees, including, among other things, employee schedules, job duties, and working conditions. At all times relevant hereto Barlow also exerted

¹ Jeffs provided testimony related to the U.S. Department of Labor Wage and Hour Division’s investigation of this matter on April 22, 2014. The address he provided at that time was 790 North Maple Street, Hildale, UT 84737. Wage Hour has since learned that his actual address may be 780 Maple Street, Hildale, UT 84737. Both addresses are within the jurisdiction of this Court.

² Paragon is also an employer under the FLSA with the other Defendants. Paragon obtained a contract with the Southern Utah Pecan Ranch to manage and operate a pecan harvest on a year-round basis. Paragon coordinated with Defendants to employ at least 1400 individuals from the FLDS Church to fulfil its contractual obligations related to the harvest. Paragon is not named as a Defendant in this action. Paragon is subject to a 2007 permanent injunction issued by the Honorable Tena Campbell in Case Number 2:06-cv-00700 TC. Simultaneously herewith Plaintiff is filing a Petition for Adjudication of Civil Contempt against Paragon in that case to seek all available relief based on Paragon’s violation of the permanent injunction.

supervision and control over the employees and managed Defendants' daily operations at Southern Utah Pecan Ranch ("SUPR").

4. Defendant Corporation of the Presiding Bishop, which together with Defendant Corporation of the President, is commonly known as the FLDS Church, is a Utah-registered corporation sole, with a principal office located at 1020 W Utah Avenue, Hildale, UT 84784-2607, within the jurisdiction of this Court. The Corporation of the Presiding Bishop is a religious organization. At all times relevant hereto, it was engaged in various commercial activities, including managing and operating a pecan harvest located at SUPR in Hurricane, UT, where it employed at least 1400 individuals. The harvested pecans were transported to a broker located in Arizona who arranged for the pecans to be transported and sold to a purchaser located in Texas.

5. Defendant Corporation of the President, which together with Defendant Corporation of the Presiding Bishop, is commonly known as the FLDS Church, is a Utah-registered corporation sole, with a principal office located at 1020 W Utah Avenue, Hildale, UT 84784-2607, within the jurisdiction of this Court. The Corporation of the President is a religious organization. At all times relevant hereto, it was engaged in various commercial activities, including managing and operating a pecan harvest located at SUPR in Hurricane, UT, where it employed at least 1400 individuals. The harvested pecans were transported to a broker located in Arizona who arranged for the pecans to be transported and sold to a purchaser located in Texas.

II. JURISDICTION AND VENUE

6. Jurisdiction of this action is conferred upon the Court by section 17 of the FLSA, 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 insofar as the individual Defendants reside in this Judicial District and the corporate Defendants have their principal office in this Judicial District.

III. FLSA STATUTORY COVERAGE

8. At all times relevant hereto, Defendants' employees personally engaged in commerce or in the production of goods for commerce within the meaning of section 6(a) of the FLSA, 29 U.S.C. § 206(a), 29 C.F.R. § 776.18. Specifically, Defendants' employees harvested pecans that were shipped out of state and entered the stream of interstate commerce.

IV. MINIMUM WAGE VIOLATIONS

9. Defendants willfully violated the provisions of sections 6 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206 and 215(a)(2), by failing to pay their employees who personally engaged in the production of goods for commerce, wages at rates not less than the federal minimum wage since at least January 1, 2012.

10. The violations are willful. The Defendants employed at least 1400 hundred children and adults at SUPR performing various job duties, including but not limited to: pruning trees, mowing fields, maintenance duties, picking and bagging pecans, shaking trees, driving equipment, cleanup work, and preparing pecans for commerce.

11. The employers did not pay these individuals for the work they performed.

12. The employers stood to benefit financially from the sale of the pecans in interstate commerce.

13. Defendants either knew or showed reckless disregard as to whether their conduct was prohibited by the FLSA.

14. Defendants knew that they did not pay these individuals for the work they performed.

15. If Defendants did not know that failing to pay wages to employees for work they performed was prohibited by the FLSA, they showed reckless disregard as to whether failing to pay wages to employees for work performed was prohibited by the FLSA.

16. A three-year statute of limitations period applies due to the willful nature of the violations. 29 U.S.C. § 255(a).

V. OVERTIME VIOLATIONS

17. Defendants willfully violated the provisions of sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), by failing to pay their employees who personally engaged in the production of goods for commerce, overtime wages for their employment in excess of forty (40) hours in a workweek that should have been compensated at time-and-a-half the regular rate, since at least January 1, 2012.

18. The violations are willful. The Defendants employed at least 1400 hundred children and adults at SUPR performing various job duties, including but not limited to: pruning trees, mowing fields, maintenance duties, picking and bagging pecans, shaking trees, driving equipment, cleanup work, and preparing pecans for commerce.

19. The employers did not pay these individuals for any of the work they performed including hours worked in excess of 40 in a workweek that should have been compensated at time-and-a-half the regular rate.

20. The employers stood to benefit financially from the sale of the pecans in interstate commerce.

21. Defendants either knew or showed reckless disregard as to whether their conduct was prohibited by the FLSA.

22. Defendants knew that they did not pay these individuals for any of the work they performed including hours worked in excess of 40 in a workweek that should have been compensated at time-and-a-half the regular rate.

23. If Defendants did not know that failing to pay wages to employees for work they performed was prohibited by the FLSA, including hours worked over 40 in a workweek that should have been compensated at time-and-a-half their regular rate, they showed reckless disregard as to whether failing to pay wages to employees for work performed was prohibited by the FLSA.

24. A three-year statute of limitations period applies due to the willful nature of the violations. 29 U.S.C. § 255(a).

VI. CHILD LABOR VIOLATIONS

25. Defendants willfully violated the provisions of sections 12 and 15(a)(4) of the FLSA, 29 U.S.C. §§ 212 and 215(a)(4), by employing hundreds of children in the production of goods for commerce.

26. At all times relevant hereto, Defendants employed at least 125³ of children under the age of twelve; at least 50 children between the ages of twelve and thirteen; and at least 25 children between the ages of fourteen and fifteen. These children worked for the Defendants in agriculture performing various job duties, including but not limited to: pruning trees, mowing

³ This is an extremely conservative estimate. All of the facts and evidence gathered to date supports a finding that several hundreds of children under the age of 16 worked at SUPR during the 2012 pecan harvest.

fields, maintenance duties, picking and bagging pecans, shaking trees, driving equipment, cleanup work, and preparing pecans for commerce.

27. All of these children were employed during school hours for the school district in which the employed minors lived at the time.

28. Defendants' employment of these children constitutes oppressive child labor within the meaning of section 3(l) of the Act, 29 C.F.R. § 203(l).

29. The violations are willful in that Defendants either knew or showed reckless disregard as to whether their conduct was prohibited by the FLSA.

30. Defendants knew that they were employing these children during school hours without pay.

31. Defendants specifically ordered the children out of school for the days and weeks that they worked for Defendants at SUPR.

32. If Defendants did not know that employing children under the age of sixteen during school hours was prohibited by the FLSA, they showed reckless disregard as to whether employing children under the age of sixteen during school hours was prohibited by the FLSA.

33. A three-year statute of limitations period applies due to the willful nature of the violations. 29 U.S.C. § 255(a).

VII. RECORD KEEPING VIOLATIONS

34. Defendants, employers subject to the provisions of the FLSA, 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.

35. Defendants failed to maintain and preserve payroll or other records regarding each employee containing the name, address, date of birth, and sex and occupation in which the employee is employed.

36. Defendants failed to maintain a weekly record of hours worked, including any hours worked in excess of 40 hours in a workweek.

37. Defendants failed to make, keep, and preserve any of the records required by 29 C.F.R. Part 516.

VIII. PRAYER FOR RELIEF

38. As a result of the violations alleged above, Defendants owe unpaid wages to certain of Defendants' former employees, for the period of January 1, 2012, to December 31, 2013. As a result of Defendants' failure to make, keep and preserve records as required by law, the specific amount of wages owed is yet to be determined. In addition, as a result of Defendant's failure to make, keep and preserve records as required by law, Plaintiff has not been able to determine the extent to which Defendants violated the FLSA's overtime provision, 29 U.S.C. § 207.

39. Defendants have violated the FLSA. An order enjoining the alleged violations and restraining the withholding of unpaid minimum wages found to be due the employees is specifically authorized by section 17 of the FLSA, 29 U.S.C. § 217.

WHEREFORE, cause having been shown, Plaintiff prays for judgment against Defendants as follows:

A. For an order pursuant to section 17 of the FLSA permanently enjoining and

restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants, from violating sections 6, 7, 11(c), 12, and 15(a) of the FLSA;

B. For an order pursuant to section 17 of the FLSA enjoining and restraining Defendants from withholding payment of unpaid wages due Defendants' employees for the period from January 1, 2012, to December 31, 2013, and pre-judgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. § 6621;

C. A monetary award to Plaintiff for the costs of this action; and

D. Such other and further relief as this Court deems just and appropriate.

Dated this 8th day of September, 2015.

Respectfully submitted,

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