

and is and, at all times hereinafter mentioned, was engaged in the operation of a full-service Mexican restaurant and related types of activities.

(B) Defendant Oscar McBenttes, is and, at all times hereinafter mentioned, was an individual who resides in Tallmadge, Ohio, who is a corporate officer and part-owner of Salsitas, Inc., and who acted directly or indirectly in the interest of Salsitas, Inc. in relation to its employees, and is an employer within the meaning of section 3(d) of the Act.

III

The defendants are and, at all times hereinafter mentioned, were engaged in related activities performed through unified operation or common control for a common business purpose, and, at all times hereinafter mentioned, were an enterprise within the meaning of section 3(r) of the Act.

IV

The defendants are and, at all times hereinafter mentioned, were an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act, in that said enterprise at all times hereinafter mentioned had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that enterprise had an annual gross volume of sales made or business done of not less than \$500,000.

V

Defendants have repeatedly and willfully violated the provisions of sections 6 and 15(a)(2) of the Act by paying their employees wages at a rate less than \$7.25 per hour in workweeks when said employees were engaged in commerce or 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. These violations resulted from the following practices: paying nonexempt employees a fixed salary that amounted to less than the minimum wage for all hours worked and failing to pay employees for all hours worked.

VI

Defendants have repeatedly and willfully violated the provisions of sections 7 and 15(a)(2) of the Act, by employing their 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. These violations resulted from paying nonexempt employees a fixed salary for all hours worked, with no overtime premium.

VII

Defendants, employers subject to the provisions of the Act, repeatedly and willfully violated the provisions of sections 11(c) and 15(a)(5) of the Act by failing 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 Act and found in 29 C.F.R. § 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 July 2012, Defendants have repeatedly and willfully violated the provisions of the Act as set forth above. A judgment which 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 Act 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 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 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 due their employees listed in the attached Exhibit A (additional back wages may be owed to certain employees presently unknown to plaintiff for the period

covered by this Complaint) 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.

Dated: March 14, 2016

/s/ Matthew M. Scheff
MATTHEW M. SCHEFF (0082229)
Trial Attorney

United States Department of Labor,
Office of Solicitor
1240 East Ninth St., Room 881
Cleveland, OH 44199
(216) 522-3878
(216) 522-7172 (Fax)
scheff.matthew@dol.gov

OF COUNSEL:

M. PATRICIA SMITH
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

BENJAMIN T. CHINNI
Associate Regional Solicitor

SANDRA B. KRAMER
Counsel for Wage Hour

EXHIBIT A

1. Alfredo [Last Name Unknown] (February 8, 2014 to March 8 , 2014)
2. Alvarao [Last Name Unknown] (July 28, 2012 to August 18, 2012)
3. Mario (Last Name Unknown] (January 19, 2013 to February 23, 2013)
4. Jose Humberto Arias (July 14, 2012 to June 28, 2014)
5. Miguel Casillas (July 21, 2012 to June 28, 2014)
6. Domingo Diaz (June 29, 2013 to June 28, 2014)
7. Ivan Garanas (March 17, 2014 to June 28, 2014)
8. Natalie Hoelzel (February 23, 2013 to June 29, 2013)
9. Sara Hoelzel (January 1, 2013 to May 18, 2013)
10. Jose Eduardo Martinez Alvarez (July 21, 2012 to June 28, 2014)
11. Hector Moreno (March 29, 2014 to June 28, 2014)
12. Armando Rizo (July 14, 2012 to April 19, 2014)
13. Alayna Spackman (December 29, 2012 to October 5, 2013)
14. Jenna Spackman (May 4, 2013 to August 10, 2013)
15. Jorge Suniga (May 5, 2013 to June 28, 2014)
16. Jose Vivero (July 14, 2012 to February 23, 2014)
17. Mizaël Vivero (March 2, 2013 to April 8, 2014)