

**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF THE ADMINISTRATIVE LAW JUDGES**

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IN THE MATTER OF:

ADMINISTRATOR, Wage and Hour Division,  
United States Department of Labor,

Complainant,

v.

EL AZTECA RESTAURANTS, INC.,  
EL AZTECA OF APPLETON, INC.,  
EL AZTECA OF NEENAH, INC.,  
EL AZTECA OF KIMBERLY, INC.,  
EL MAYA MEXICAN RESTAURANT, INC.  
f/k/a EL AZTECA RESTAURANT OF  
DE PERE, INC., Wisconsin corporations,  
and MARCO MONTALVO,  
FE MONTALVO, and SERGIO JIMENEZ,  
individuals,

Respondents.  
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Order of Reference

Nos. 2015-FLS-00006  
2015-FLS-00007  
2015-FLS-00008  
2015-FLS-00009

**CONSENT FINDINGS**

Complainant, ADMINISTRATOR, Wage and Hour Division, United States Department of Labor, and respondents, EL AZTECA RESTAURANTS, INC., EL AZTECA OF APPLETON, INC., EL AZTECA OF NEENAH, INC., EL AZTECA OF KIMBERLY, INC., EL MAYA MEXICAN RESTAURANT, INC. f/k/a EL AZTECA RESTAURANT OF DE PERE, INC., and MARCO MONTALVO, FE MONTALVO, and SERGIO JIMENEZ, individuals, by and through their attorneys, and pursuant to 29 C.F.R. § 18.9, agree to the entry of the following consent findings:

## I

By notices dated February 26, 2015, pursuant to section 16(e) of the Fair Labor Standards Act of 1938, as Amended (29 U.S.C. § 201 *et seq.*)(hereinafter the "Act"), and in accordance with 29 C.F.R. Parts 578 and 580, civil money penalties were assessed by complainant against respondents as a result of employment of employees in violation of sections 6 and 7 of the Act (29 U.S.C. §§ 206, 207).

## II

By letters dated March 11, 2015, respondents filed a timely exception to the assessed civil money penalties, pursuant to 29 U.S.C. § 216(e) and 29 C.F.R. § 580.6.

## III

Subsequent to the filing of the exception, the Director of Regional Operations, Wage and Hour Division, United States Department of Labor, by Order of References, referred this case to the Chief Administrative Law Judge, pursuant to 29 C.F.R. § 580.10(a).

## IV

Respondents certify that they are presently in compliance with the provisions of sections 6, 7, and 11 of the Act and the regulations applicable thereto and further state that they will continue in compliance therewith.

V

Upon reconsideration of the amount of penalties assessed, complainant does hereby modify the notice of assessment of penalties to \$25,000. Respondents shall pay the complainant a total of \$25,000 for the amended civil money penalties, to the complainant, in two installment payments of \$12,500 by August 3, 2019 and \$12,500 by September 3, 2019, in accordance with the consent judgment entered by the United States District Court for the Northern District of Illinois, civil action no.: 15-cv-221.

VI

Respondents hereby withdraw their exception to the assessments of civil money penalties, as amended, and agree to accept the modified penalties as final and binding.

VII

Any order entered in accordance with these consent findings shall, pursuant to 29 C.F.R. § 18.9(b)(1), have the same force and effect as an order made after a full hearing.

VIII

The entire record upon which any final order may be based shall, pursuant to 29 C.F.R. § 18.9(b)(2), consist of the notice of penalty and the Order of Reference, as modified herein, and these consent findings.

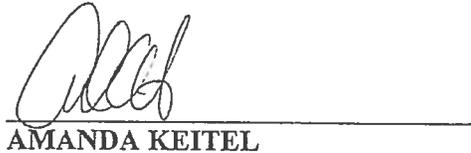
IX

All further procedural rights provided by 29 C.F.R. Part 580, and any right to contest the validity of these consent findings or any order issued pursuant thereto are hereby waived in accordance with 29 C.F.R. § 18.9(b)(3) and (b)(4).

The execution of these consent findings waives any claim any party has to costs and/or attorney fees incurred to date, including, but not limited to, attorneys fees available under the Equal Access to Justice Act, as Amended.

Dated June 24, 2016.

  
DAVE VAN LIESHOUT

  
AMANDA KEITEL

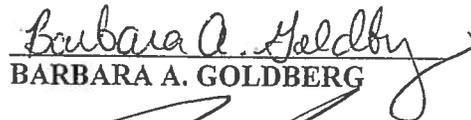
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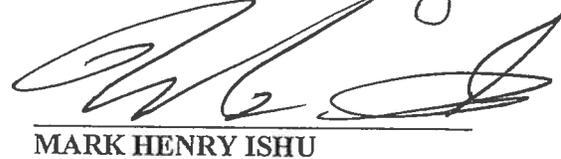
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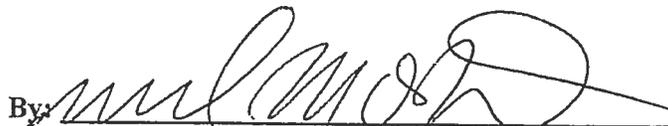
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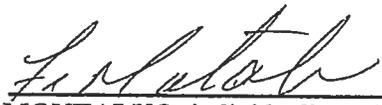
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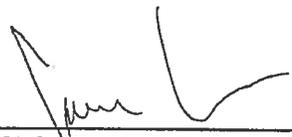
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By:   
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EL AZTECA OF NEENAH, INC.,  
EL AZTECA OF KIMBERLY, INC.,  
EL MAYA MEXICAN RESTAURANT, INC. f/k/a  
EL AZTECA RESTAURANT OF DE PERE, INC.

By:   
FE MONTALVO, individually and on behalf of  
EL AZTECA RESTAURANTS, INC.,  
EL AZTECA OF APPLETON, INC.,  
EL AZTECA OF NEENAH, INC.,  
EL AZTECA OF KIMBERLY, INC.,  
EL MAYA MEXICAN RESTAURANT, INC. f/k/a  
EL AZTECA RESTAURANT OF DE PERE, INC.

By:   
SERGIO JIMENEZ, individually and on behalf of  
EL AZTECA RESTAURANTS, INC.,  
EL AZTECA OF APPLETON, INC.,  
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EL AZTECA OF KIMBERLY, INC.,  
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