

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

EUGENE SCALIA, Secretary of Labor,
United States Department of Labor,

Plaintiff,¹

v.

SIGUENZA, LLC d/b/a CAVA WINE BAR
AND RESTAURANT; 1077, LLC d/b/a
SCENA WINE BAR AND RESTAURANT;
1104 CHAPEL STREET, LLC d/b/a
HARVEST WINE BAR AND
RESTAURANT; GREENWICH AVENUE
RESTAURANT, LLC d/b/a SUNDOWN; 36
RAILROAD PLACE, LLC d/b/a HARVEST
WINE BAR AND RESTAURANT-
WESTPORT; SL RESTAURANT GROUP,
LLC d/b/a 55 WINE BAR; VICENTE
SIGUENZA; WILSON SIGUENZA; NUBE
SIGUENZA; and KLEBER SIGUENZA,

Defendants.

Civil Action No. 3:20-cv-01762-VLB

CONSENT JUDGMENT AND ORDER

Plaintiff Secretary of Labor, United States Department of Labor (the “Secretary”), filed this action asserting violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the “FLSA”) against ten Defendants: restaurants Siguenza, LLC d/b/a Cava Wine Bar and Restaurant; 1077, LLC d/b/a Scena Wine Bar and Restaurant; 1104 Chapel Street, LLC d/b/a Harvest Wine Bar and Restaurant; Greenwich Avenue Restaurant, LLC d/b/a Sundown; 36 Railroad

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Secretary of Labor Martin J. Walsh is automatically substituted as the proper plaintiff in this case. For ease of reference, Secretary Walsh and his pertinent predecessors will be referred to herein as the “Secretary.”

Place, LLC d/b/a Harvest Wine Bar and Restaurant-Westport; SL Restaurant Group, LLC d/b/a 55 Wine Bar; and individuals Vicente Siguenza, Nube Siguenza, Kleber Siguenza, and Wilson Siguenza.

Defendants admit that the Court has personal jurisdiction over them. The Court finds that it has jurisdiction to enter this Consent Judgment and Order (the “Consent Judgment”), and the Secretary and Defendants agree to its terms.

On November 15, 2022, the Court entered a Memorandum of Decision Granting in Part and Denying in Part Cross Motions for Partial Summary Judgment (“Summary Judgment Decision”) [Dkt. 47]. This Consent Judgment incorporates the Summary Judgment Decision.

Consistent with the Summary Judgment Decision, and with the parties’ agreement to resolve all outstanding issues remaining to be tried following that decision, it is hereby ORDERED, ADJUDGED, and DECREED, that:

1. Defendants and their officers, successors, assigns, agents, servants, employees, and all persons in active concert or participation with them or acting or claiming to act in their interest and behalf, are hereby permanently enjoined and restrained from violating the FLSA in any manner. Specifically:

a. Defendants shall not, contrary to Sections 6 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206 and 215(a)(2), pay any employees who in any workweek are engaged in commerce or in the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the FLSA, wages at rates less than the applicable minimum wage under the FLSA.

b. Defendants shall not, contrary to Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), employ any employees who in any workweek are engaged in commerce or in the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the FLSA, for workweeks longer than 40 hours, unless such employees receive compensation for their employment in excess of 40 hours in a workweek at rates not less than one-and-one-half times the employees' regular rates of pay.

c. Defendants shall not fail to make, keep, and preserve records of employees and of the wages, hours, and other conditions and practices of employment maintained by Defendants as prescribed by the regulations issued, and from time to time amended, pursuant to Sections 11(c) and 15(a)(5) of the FLSA, 29 U.S.C. §§ 211(c) and 215(a)(5), and found in 29 C.F.R. Part 516.

d. Defendants shall not fail to cooperate with the United States Department of Labor in any investigation conducted pursuant to Section 11(a) of the FLSA, 29 U.S.C. § 211(a), and commenced after the entry of this Consent Judgment. Defendants shall provide truthful responses and other information and documents to the United States Department of Labor. Defendants shall provide the United States Department of Labor access to all records that are required to be maintained pursuant to Section 11(c) of the FLSA, 29 U.S.C. § 211(c), and 29 C.F.R. Part 516, and shall provide

access to other information necessary for the proper execution of any United States Department of Labor FLSA investigation. Nothing contained in this Consent Judgment, including the requirement to cooperate as set forth in this Paragraph, abrogates Defendants' rights under the United States Constitution.

e. Defendants shall not, contrary to Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3), discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to the FLSA, has testified or is about to testify in any such proceeding, or has otherwise engaged in protected activity under the FLSA.

2. The Court orders Defendants to pay back wages, withheld tips, and liquidated damages in the total amount of \$858,191.10 (inclusive of \$429,095.55 in unpaid tips and wages and \$429,095.55 in liquidated damages). The Court further orders that Defendants are restrained from withholding said unpaid wages and shall pay, jointly and severally, said unpaid tips, wages, and liquidated damages in accordance with the terms set forth herein.

3. Defendants represent that, to the best of their knowledge and following diligent review and inquiry, they have been in compliance with the FLSA since September 7, 2019. In resolving the amount of unpaid tips, wages, and liquidated damages in this Consent Judgment, the Secretary has relied on this representation. Accordingly, the back wage, withheld tips, and liquidated damages provisions of this Consent Judgment only cover: (a) the period from

July 1, 2016 through September 7, 2019 (the “Time Period”); and (b) the individuals named in Exhibit A hereto. This Consent Judgment shall have no effect on any back wages, withheld tips, or liquidated damages that: (a) may have accrued outside the Time Period; or (b) may be owed to any individual not named on Exhibit A.

4. Within 30 days of the Court’s entry of this Consent Judgment, Defendants shall deliver to the Secretary \$429,095.55 in gross back wages and withheld tips, from which deductions for Defendants’ employees’ share of social security and federal withholding taxes will be made by the United States Department of Labor with no deduction for the employees’ state withholding tax, and separate payment totaling \$429,095.55 in liquidated damages. Defendants, jointly and severally, shall further pay the employers’ share of FICA to the appropriate authorities. No deductions shall be taken with respect to the liquidated damages amounts.

5. Defendants may make the payments required by this Consent Judgment either online by ACH transfer, credit card, debit card, or digital wallet by going to <https://pay.gov/public/form/start/77689032> or by going to <http://www.pay.gov> and searching for WHDBWNE. Alternatively, payment may be made in the form of separate certified checks for the amounts of the (a) back wages and withheld tips and (b) liquidated damages, made payable to “Wage and Hour Division—Labor” and delivered to the United States Department of Labor, Wage and Hour Division, 1835 Market Street, 19th Floor, Philadelphia, Pennsylvania 19103-2698, Attn: Linda Estacio. Any such check shall have Case

Numbers 1850725, 1856752, 1866138, 1866139, 1866140, and 1866141 written on the face of the check. Funds received by the Secretary pursuant to this Consent Judgment shall be credited first towards the liquidated damages due, then towards withheld tips due, and then towards back wages due.

6. Within 30 days of the Court's entry of this Consent Judgment, Defendants shall deliver to the United States Department of Labor, Wage and Hour Division, 1835 Market Street, 19th Floor, Philadelphia, Pennsylvania 19103-2698, Attn: Linda Estacio, a statement showing the following: employers' Federal ID number(s), the name of each employee listed in Exhibit A, and each employee's current address and social security number (only to the extent currently known by Defendants).

7. When recovered wages, tips, or liquidated damages have not been claimed by an individual listed on Exhibit A within three years, because of inability to locate the individual or because of the individual's refusal to accept such sums, the Secretary shall deposit the wages, tips, or liquidated damages into the United States Treasury as miscellaneous receipts, pursuant to 29 U.S.C. § 216(c).

8. In the event Defendants fail to make a payment within 10 days of the payment being due under this Consent Judgment, then Defendants consent to the entry of a Writ of Execution, pursuant to Rule 69 of the Federal Rules of Civil Procedure, to enforce the monetary terms of this Consent Judgment. The Secretary may seek such a writ at any time if Defendants have failed to make payment under this Consent Judgment and more than 10 days have passed since

the date the payment was due. The Secretary may represent in filing for such a writ that Defendants consent to its issuance. Upon request from the Secretary, Defendants agree to furnish a complete and accurate list of their real, personal, and business property, including any bank accounts and account numbers, with an estimated value of \$2,000.00 or more and the locations of such property for purposes of the Secretary seeking and executing a Writ of Execution in accordance with this Paragraph of the Consent Judgment.

9. Defendants shall not, in any way, solicit, demand, accept, or keep any amount paid or payable to any individual under this Consent Judgment or in any manner attempt to recover any amounts paid to such individuals in connection with this Consent Judgment. In the event any such amount is received from any individual listed on Exhibit A, Defendants shall immediately remit such amount to the United States Department of Labor at the following address: United States Department of Labor, Wage and Hour Division, 1835 Market Street, 19th Floor, Philadelphia, Pennsylvania 19103, Attn: Linda Estacio.

10. Defendants agree that they understand the requirements of the FLSA and will make good faith efforts to comply with all applicable provisions of the FLSA in the future at all of their locations.

11. Nothing in this Consent Judgment precludes the Secretary from using evidence discovered in the investigation that led to the Complaint in this matter in any future investigation, enforcement action, or legal action.

12. Each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

SO ORDERED, this 22nd day of February, 2023.

/s/

Honorable Vanessa L. Bryant
United States District Judge

Respectfully submitted,

For All Defendants:

/s/ Craig T. Dickinson
Craig T. Dickinson (CT18053)²
FordHarrison, LLP
CityPlace II
185 Asylum Street, Suite 610
Hartford, CT 06103
Tel #: (860) 740-1371
Email: cdickinson@fordharrison.com

Attorney for Defendants Siguenza,
LLC d/b/a Cava Wine Bar and
Restaurant; 1077, LLC d/b/a Scena
Wine Bar and Restaurant; 1104
Chapel Street, LLC d/b/a Harvest
Wine Bar and Restaurant; Greenwich
Avenue Restaurant, LLC d/b/a
Sundown; 36 Railroad Place, LLC
d/b/a Harvest Wine Bar and
Restaurant-Westport; SL Restaurant
Group, LLC d/b/a 55 Wine Bar;
Vicente Siguenza; Nube Siguenza;
Kleber Siguenza; and Wilson
Siguenza

The Plaintiff:

Seema Nanda
Solicitor of Labor

Maia S. Fisher
Regional Solicitor

Mark A. Pedulla
Wage and Hour Counsel

/s/ Joseph R. Landry
Joseph R. Landry
Trial Attorney
Landry.Joseph@dol.gov
CT Fed. Bar No. phv09951

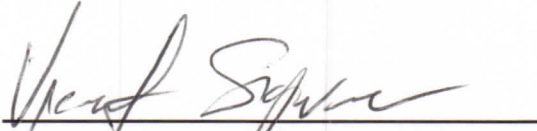
U.S. Department of Labor
Office of the Solicitor
John F. Kennedy Federal Building
Room E-375
Boston, MA 02203
TEL: (617) 565-2500
FAX: (617) 565-2142

U.S. Department of Labor
Attorneys for Plaintiff

Date: February 7, 2023

² As required by Section XI.D of the Electronic Filing Policies and Procedures for the United States District Court for the District of Connecticut, Attorney Craig Dickinson hereby gives his consent to Attorney Joseph R. Landry to electronically file this document along with his electronic signature.

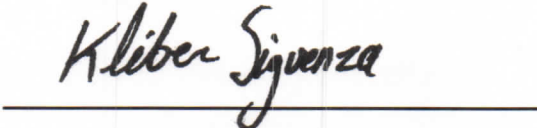
**ACKNOWLEDGED, UNDERSTOOD,
AND ASSENTED TO BY:**



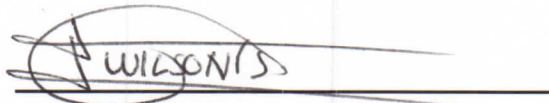
Vicente Siguenza



Nube Siguenza



Kleber Siguenza



Wilson Siguenza