

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

JULIE A. SU,¹ Acting Secretary of Labor,)
United States Department of Labor,)
)
Plaintiff,)
)
v.) Civil Action No.: 1:22-cv-7092
)
OM MATTESON PIZZA, INC., an Illinois)
corporation, OM RICHMOND PIZZA, INC.,)
an Illinois corporation, OM PLAINFIELD)
PIZZA, INC., an Illinois corporation, OM)
KRAT PIZZA, INC., an Illinois corporation,)
OM DYER PIZZA, INC., an Indiana)
corporation, KALPESH PATEL, an individual,)
and KETAN LIMBACHIYA, an individual,)
)
Defendants)

CONSENT ORDER AND JUDGMENT

Plaintiff, **JULIE A. SU**, Acting Secretary of Labor, United States Department of Labor, having filed his Complaint and Defendants **OM MATTESON PIZZA, INC.**, an Illinois corporation, **OM RICHMOND PIZZA, INC.**, an Illinois corporation, **OM PLAINFIELD PIZZA, INC.**, an Illinois corporation, **OM KRAT PIZZA, INC.**, an Illinois corporation, **OM DYER PIZZA, INC.**, an Indiana corporation, **KALPESH PATEL**, an individual, and **KETAN LIMBACHIYA**, an individual, (collectively “Defendants”) hereby acknowledge receipt of the Complaint herein and waive service thereof, having been duly advised in the premises, agree to the entry of this Judgment without contest under the Fair Labor Standards Act of 1938, as Amended (29 U.S.C. § 201 *et seq.*) (hereinafter “the Act”).

¹ By operation of law, Julie A. Su is substituted *sub nom.* for former Secretary of Labor, Martin Walsh. See Fed. R. Civ. P. 25(d).

Defendants admit and the Court finds Defendants are engaged in related activities performed through unified operation or common control for a common business purpose and are an “enterprise” under 29 U.S.C. § 203(r) of the FLSA.

Defendants admit and the Court finds Defendants are an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(1)(A) of the FLSA.

Defendants admit and the Court finds Defendants are employers as defined in 29 U.S.C. § 203(d) of the FLSA.

NOW, therefore, upon motion for the attorneys for Plaintiff and Defendants, and for cause shown:

JUDGMENT IS HEREBY ENTERED against Defendants pursuant to sections 16(c) and 17 of the Act as follows.

IT IS HEREBY ORDERED AND ADJUDGED, pursuant to section 17 of the Act, that the Defendants, their officers, agents, servants, successors, employees, and all persons in active concert or participation with them be and hereby are, permanently enjoined and restrained from violating the provisions of the Act, in any of the following manners.

I

Defendants shall not, contrary to 29 U.S.C. §§ 207 and 215(a)(2), employ any of their employees including, but not limited to, any of their employees working at any business location owned, operated, and/or controlled by any Defendant, and at any other business location at which their employees perform work, in any workweek when they are engaged in commerce or employed in an enterprise engaged in commerce, within the meaning of the FLSA, for workweeks longer than the hours now, or which in the future become, applicable under 29

U.S.C. §§ 207 and 215(a)(2), unless the said employees receive compensation for their employment in excess of the prescribed hours at a rate equivalent to one and one-half times the regular rates applicable to them.

II

Defendants shall make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them including, but not limited to, any of their employees working at any business location owned, operated, and/or controlled by any Defendant, and at any other business location at which their employees perform work, as prescribed by the Regulations issued pursuant to 29 U.S.C. §§ 211(c) and 215(a)(5) and found at 29 C.F.R. Part 516. Defendants shall make such records available at all reasonable times to representatives of the Plaintiff and with reasonable notice.

III

Pursuant to 29 U.S.C. § 215(a)(3), Defendants shall not discharge or take any retaliatory action against any of their employees, whether or not directly employed by Defendants, because the employee engages in any of the following activities:

- a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy, or practice of the Defendants or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the FLSA, or a rule or regulation promulgated pursuant to the FLSA;
- b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the FLSA, or a rule or regulation promulgated pursuant to the FLSA, by the Defendants or another employer with whom there is a business relationship;

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the FLSA, or a rule or regulation promulgated pursuant to the FLSA.

Defendants shall provide each current and new employee with FLSA Fact Sheet 23 (Overtime Pay Requirements of the FLSA), which is publicly available at <https://www.dol.gov/whd/fact-sheets-index.htm>. For the purposes of this Paragraph, it shall suffice for Defendants to provide the above link to any current and new employees, except that Defendants shall provide a paper copy to any employee who requests one.

IV

FURTHER, JUDGMENT IS HEREBY ENTERED, pursuant to section 29 U.S.C. § 216(c), in favor of the Secretary and against Defendants in the total amount of **\$250,000**.

A. The Secretary shall recover from Defendants the sum of **\$125,000**, which represents the unpaid overtime compensation hereby found to be due, for the period May 1, 2019, through June 23, 2021, to the present and former employees named in Exhibit A, attached hereto and made a part hereof, in the amounts set forth therein.

B. The Secretary shall further recover from Defendants the sum of **\$125,000** in liquidated damages hereby found to be due, for the period May 1, 2019, through June 23, 2021, to the present and former employees named in Exhibit A in the amounts set forth therein.

V

The monetary provisions of this judgment shall be deemed satisfied, upon Defendants' delivery to the Secretary's representative of all of the following:

A. At the time of Defendants' execution of this Consent Judgment:

- (1) A schedule in duplicate showing the full name, last-known address, and social security number for each employee named in Exhibit A.
 - (2) One payment in the amount of **\$70,000** toward the amount of back wages and liquidated damages owed to the employees in Exhibit A, made by ACH transfer, credit card, debit card, or digital wallet at <https://www.pay.gov/public/form/start/77692637> or <https://www.pay.gov> and searching “WHD Back Wage Payment – Midwest Region”; and,
- B. No later than **90 days** after Defendants’ execution of this Consent Judgment:
- (1) A second payment in the amount of **\$90,000** toward the amount of back wages and liquidated damages owed to the employees in Exhibit A, made by ACH transfer, credit card, debit card, or digital wallet at <https://www.pay.gov/public/form/start/77692637> or <https://www.pay.gov> and searching “WHD Back Wage Payment – Midwest Region”; and,
- C. No later than **180 days** after Defendants’ execution of this Consent Judgment:
- (1) A third payment in the amount of **\$90,000** toward the amount of back wages and liquidated damages owed to the employees in Exhibit A, made by ACH transfer, credit card, debit card, or digital wallet at <https://www.pay.gov/public/form/start/77692637> or <https://www.pay.gov> and searching “WHD Back Wage Payment – Midwest Region.”

Upon receipt of full payment from Defendants, representatives of the Secretary shall distribute such amounts, less appropriate deductions for federal income withholding taxes and the employee’s share of the social security (F.I.C.A.) tax, to the employees or their legal representative as their interests may appear, in accordance with the provisions of section 16(c) of the FLSA. Any

amounts of unpaid compensation and liquidated damages not so paid within a period of three (3) years from the date of receipt thereof shall, pursuant to section 16(c) of the Act, be covered into the Treasury of the United States as miscellaneous receipts. Defendants remain responsible for paying their share of F.I.C.A. arising from or related to the back wages distributed by the Secretary and their share of any applicable taxes to the appropriate State and Federal revenue authorities.

VI

Defendants shall not request, solicit, suggest, or coerce, directly, or indirectly, any current or former employee to return or to offer to return to the Defendants or to someone else for the Defendants, any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this Consent Judgment or the Act; nor shall Defendants accept, or receive from any employee, either directly or indirectly, any money in the form of cash, check, or any other form, for wages heretofore or hereafter paid to said employee under the provisions of this Consent Judgment or the Act; nor shall Defendants discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against any such employee because such employee has received or retained money due to him from the Defendants under the provisions of this Consent Judgment or the Act.

VII

The provisions of this Consent Judgment shall not in any way affect any legal right of any individual not named on Exhibit A, nor shall the provisions in any way affect any legal right of any individual named on Exhibit A to file any action against Defendants for any violations alleged to have occurred outside the relevant period, defined as: August 22, 2020 to December 18, 2021.

VIII

FURTHER, it is agreed by the parties herein and hereby **ORDERED** that each party bears its own fees and other expenses incurred by such party in connection with any stage of this proceeding to date with no costs, including, but not limited to, any and all costs referenced under the Equal Access to Justice Act, as Amended.

IX

FURTHER, this Court shall retain jurisdiction of this matter to enforce the terms of this final judgment pursuant to Federal Rule of Civil Procedure 54.

SO ORDERED.

Dated this 19th day of April, 2023.



LINDSAY C. JENKINS
United States District Judge

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The parties hereby consent to the entry of this Consent Judgment:

OM MATTESON PIZZA, INC.,
by: [Signature]
its [Signature]

OM RICHMOND PIZZA, INC.,
by: [Signature]
its [Signature]

OM PLAINFIELD PIZZA, INC.,
by: [Signature]
its [Signature]

OM KRAT PIZZA, INC.,
by: [Signature]
its [Signature]

OM DYER PIZZA, INC.,
by: [Signature]
its [Signature]

[Signature]
KALPESH PATEL, individually

[Signature]
KETAN LIMBACHIYA, individually

/s/ Anish Parikh
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*Attorneys for Plaintiff Martin J. Walsh,
Secretary of Labor, United States Department
of Labor*

EXHIBIT A: DAMAGES OWED

	Employee	Employer	Back Wages	Liquidated Damages	Total
1	Farajanaben Bhimani	OM Dyer Pizza, Inc.	\$6,405.79	\$6,405.79	\$12,811.58
2	Angela Davis	OM Dyer Pizza, Inc.	\$759.94	\$759.94	\$1,519.88
3	Pedro Jimenez-Reyes	OM Dyer Pizza, Inc.	\$4,032.09	\$4,032.09	\$8,064.18
4	Catherine Knowles	OM Dyer Pizza, Inc.	\$19.22	\$19.22	\$38.44
5	Jitender Kumar	OM Dyer Pizza, Inc.	\$2,740.62	\$2,740.62	\$5,481.24
6	Yash Shah	OM Dyer Pizza, Inc.	\$1,010.58	\$1,010.58	\$2,021.16
7	Julio Garcia	OM Krat Pizza, Inc.	\$2,110.65	\$2,110.65	\$4,221.30
8	Gerson Hernandez	OM Krat Pizza, Inc.	\$1,536.76	\$1,536.76	\$3,073.52
9	Sean Lepitre	OM Krat Pizza, Inc.	\$281.87	\$281.87	\$563.74
10	Asim Muhammad	OM Krat Pizza, Inc.	\$19,384.28	\$19,384.28	\$38,768.56
11	Aheed Tariq	OM Krat Pizza, Inc.	\$590.98	\$590.98	\$1,181.96
12	Chaitali Nayee	OM Matteson Pizza, Inc.	\$11,578.03	\$11,578.03	\$23,156.06
13	Hiteshkumar Patel	OM Matteson Pizza, Inc.	\$16,654.30	\$16,654.30	\$33,308.60
14	Jeet Patel	OM Matteson Pizza, Inc.	\$554.80	\$554.80	\$1,109.60
15	Megan Patel	OM Matteson Pizza, Inc.	\$2,226.49	\$2,226.49	\$4,452.98
16	Rekhabahen Patel	OM Matteson Pizza, Inc.	\$8,581.75	\$8,581.75	\$17,163.50
17	Seema Patel	OM Matteson Pizza, Inc.	\$756.05	\$756.05	\$1,512.10
18	Versha Patel	OM Matteson Pizza, Inc.	\$6,573.44	\$6,573.44	\$13,146.88
19	Ashley Anderson	OM Plainfield Pizza, Inc.	\$645.15	\$645.15	\$1,290.30
20	Carlos Campos	OM Plainfield Pizza, Inc.	\$284.72	\$284.72	\$569.44
21	Mario A. Martinez	OM Plainfield Pizza, Inc.	\$8,815.67	\$8,815.67	\$17,631.34
22	Erick Medina	OM Plainfield Pizza, Inc.	\$5,879.92	\$5,879.92	\$11,759.84
23	Jonathan Nocelotl	OM Plainfield Pizza, Inc.	\$1,290.76	\$1,290.76	\$2,581.52
24	Robert Padula	OM Plainfield Pizza, Inc.	\$566.01	\$566.01	\$1,132.02
25	Jairo U. Soto Garcia	OM Plainfield Pizza, Inc.	\$263.55	\$263.55	\$527.10
26	Manuel Aguilar	OM Richmond Pizza, Inc.	\$53.89	\$53.89	\$107.78
27	Adrian De La Torre	OM Richmond Pizza, Inc.	\$2,874.63	\$2,874.63	\$5,749.26
28	Mike Hansen	OM Richmond Pizza, Inc.	\$2,917.63	\$2,917.63	\$5,835.26
29	Brian Lantz	OM Richmond Pizza, Inc.	\$11,900.37	\$11,900.37	\$23,800.74
30	Omar Martinez	OM Richmond Pizza, Inc.	\$24.35	\$24.35	\$48.70
31	Michaela Murphy	OM Richmond Pizza, Inc.	\$76.26	\$76.26	\$152.52
32	Salvador Santiago Victor	OM Richmond Pizza, Inc.	\$1,785.84	\$1,785.84	\$3,571.68
33	Curtis Toney	OM Richmond Pizza, Inc.	\$665.54	\$665.54	\$1,331.08
34	Manual Valdivia	OM Richmond Pizza, Inc.	\$936.74	\$936.74	\$1,873.48
35	Ismael Zepeda	OM Richmond Pizza, Inc.	\$221.33	\$221.33	\$442.66
				TOTAL:	\$250,000.00