

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JULIE A. SU, Acting Secretary of Labor,
United States Department of Labor,

:
Case No. 23-cv-21616

:
Plaintiff,

v.

:
NOVA PRODUCE INSPECTION SERVICES LLC;
CHRISTIAN ROJAS, individually; and KARINA
ROJAS, individually,

:
Defendants.

**EX PARTE NOTICE OF MOTION FOR A TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION
SHOULD NOT BE ISSUED**

Pursuant to Federal Rule of Civil Procedure 65, Section 17 of the Fair Labor Standards Act (“the Act”), 29 U.S.C. § 217, and Local Civil Rule 65.1, Plaintiff JULIE A. SU, Acting Secretary of Labor, U.S. Department of Labor (the “Acting Secretary”), respectfully moves this Court *ex parte* for a temporary restraining order to restrain Defendants NOVA PRODUCE INSPECTION SERVICES LLC, CHRISTIAN ROJAS, and KARINA ROJAS (“Defendants”), their officers, employees, agents, and all persons acting in active concert or participation, from terminating and/or retaliating in any way against employees based on Defendants’ belief that such employees have engaged in any protected activity, including but not limited to cooperating in the Department of Labor’s ongoing investigation or complaining that they have not been paid in accordance with the Act.

As set forth in the accompanying Declaration of Susan Jacobs dated October 30, 2023, pursuant to Federal Rule of Civil Procedure 65(b)(1) and Local Civil Rule 65.1, the Secretary files this motion *ex parte* because Defendants have already retaliated against an employee. The Acting

Secretary has a well-founded concern that given Defendants demonstrated and conscious disregard of the Act, notice of this motion to Defendants, prior to issuance of a temporary restraining order, would result in immediate and irreparable injury in the form of interference in the government's investigation and/or additional retaliation against employees.

Accordingly, PLEASE TAKE NOTICE that at as soon as the Acting Secretary can be heard regarding her Ex Parte Motion for a Temporary Restraining Order and all supporting papers, the Acting Secretary hereby requests the Court to grant her motion and restrain Defendants their officers, employees, agents, and all persons acting in active concert or participation from:

1. Violating the provisions of section 15(a)(3) of the Act;
2. Terminating or threatening to terminate the employment, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against their employees in any other way, based on Defendants' belief that such employee has complained about pay or engaged in any other protected activity under the Act;
3. Terminating or threatening to terminate the employment, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against their current and former employees in any other way, based upon Defendants' belief that such employee has cooperated with the Department of Labor ("Department");
4. Obstructing the Department's investigation in any way;
5. Telling any workers not to cooperate with the Department's representatives; telling any workers to provide incomplete or false information to the Department's representatives; or questioning workers about their cooperation or communications with the Department's representatives;
6. Communicating with any employee regarding the Department's investigation without first informing the employee, in writing and in the employee's primary language, that employees may communicate with the Department and its representatives voluntarily and free from coercion, and that employees cannot be discriminated against or retaliated against for communicating with the Department's representatives; and

7. Terminating any employee without providing at least seven days' notice to the Department's Wage and Hour Division prior to any termination; and

Based on the same supporting papers, the Acting Secretary also hereby asks the Court to grant her motion and order that Defendants, their officers, employees, agents, and all persons acting in active concert or participation be required:

1. Within 7 days of the Court's Order to Show Cause, Defendants shall allow representatives of the Department to read aloud in English, Spanish, and any other language as necessary to be understood by Defendants' employees, during employees' paid working hours, the following statement to all employees employed by Defendants, and in the presence of a supervisor or manager:

You are protected by the Fair Labor Standards Act and have the right to participate freely in the U.S. Department of Labor's investigation into your employer's pay practices. You have the right to speak freely with investigators, attorneys, or other officials from the Department of Labor. Your employer is prohibited from retaliating against you in any way, including by terminating you, reporting you to immigration, or threatening to do any of these things because you spoke with the Department of Labor.

The U.S. District Court for the District of New Jersey has ordered Nova Produce Inspection Services LLC, Christian Rojas, and Karina Rojas and anyone acting on their behalf to cease coercing, retaliating against, threatening to retaliate against, intimidating, or attempting to influence or in any way threatening employees for providing information to the Department of Labor.

2. Within 7 days of the Court's Order to Show Cause, Defendants shall mail a hard copy of the above statement, in English, Spanish, and other language as necessary to be understood by Defendants' employees, to all current and former employees at their last known addresses, along with contact information for representatives of the Secretary (to be provided by the Secretary's representatives).

DATED: October 30, 2023
 New York, New York

Respectfully submitted,

SEEMA NANDA
Solicitor of Labor

JEFFREY S. ROGOFF
Regional Solicitor

/s Susan Jacobs
SUSAN B. JACOBS
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