

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

R. ALEXANDER ACOSTA,  
SECRETARY OF LABOR,  
UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

LAS TRANCAS, INC., LAS TRANCAS OF  
CHARLESTON, INC., LAS TRANCAS -  
BUCKHANNON, INC., LAS TRANCAS OF  
RIPLEY, INC., PLAZA MAYA, INC., and  
LORENA ARELLANO and MARTIN ARELLANO,  
individually and as corporate officers of enterprise of  
LAS TRANCAS, INC.,

Defendants.

Civil Action No. 2:18-cv-00936

**COMPLAINT**

Plaintiff, R. Alexander Acosta, Secretary of Labor, United States Department of Labor (“Plaintiff”) brings this action to enjoin LAS TRANCAS, INC.; LAS TRANCAS OF CHARLESTON, INC.; LAS TRANCAS - BUCKANNON, INC.; LAS TRANCAS OF RIPLEY, INC.; and PLAZA MAYA, INC., corporations, and LORENA ARELLANO and MARTIN ARELLANO, individually and as corporate officers of LAS TRANCAS, INC. (collectively, “Defendants”), from violating the provisions of Sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (“the Act”), and for a judgment against Defendants in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act and an equal amount due to the employees of Defendants in liquidated damages.

1. Jurisdiction of this action is conferred upon the Court by Section 17 of the Act, 29

U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Defendant LAS TRANCAS, INC., is a corporation duly organized under the laws of the State of West Virginia, with a registered office at 500 53rd Street, Vienna, West Virginia 26105. Defendant is engaged in a full-service restaurant business at 479 Emily Drive, Clarksburg, West Virginia 26301 (“Las Trancas Clarksburg”) and at a second address, 458 Pike Street, Marietta, Ohio 45750 (“Las Trancas Marietta”), within the jurisdiction of this Court.

3. Defendant LAS TRANCAS OF CHARLESTON, INC., is a corporation duly organized under the laws of the State of West Virginia, with a registered office at 121 Cross Terrace Boulevard, South Charleston, West Virginia 25309. Defendant is engaged in a full-service restaurant business at the same address (“Las Trancas Charleston”), within the jurisdiction of this Court.

4. Defendant LAS TRANCAS - BUCKHANNON, INC., is a corporation duly organized under the laws of the State of West Virginia, with a registered office at 8 North Florida Street, Buckhannon, West Virginia 26201. Defendant is engaged in a full-service restaurant business at the same address (“Las Trancas Buckhannon”), within the jurisdiction of this Court.

5. Defendant LAS TRANCAS OF RIPLEY, INC., is a corporation duly organized under the laws of the State of West Virginia, with a registered office at 157 McGraw Street, Ripley, West Virginia 25271. Defendant is engaged in a full-service restaurant business at the same address (“Las Trancas Ripley”), within the jurisdiction of this Court.

6. Defendant PLAZA MAYA, INC., is a corporation duly organized under the laws of the State of West Virginia, with a registered office at 3112 Chesterfield Avenue B, Charleston, West Virginia 25304. Defendant is engaged in a full-service restaurant business at the same address (“Plaza Maya”), within the jurisdiction of this Court.

7. Defendants Lorena Arellano and Martin Arellano are the owners of the corporations identified in Paragraphs II through VI and reside at 500 53rd Street, Vienna, West Virginia 26105. Lorena Arellano and Martin Arellano have directed employment practices and have directly or indirectly acted in the interest of Las Trancas Clarksburg, Las Trancas Marietta, Las Trancas Charleston, Las Trancas Buckhannon, Las Trancas Ripley, and Plaza Maya (collectively, “the Las Trancas restaurants”) in relation to their employees at all times relevant herein. Furthermore, at all times relevant herein, Lorena Arellano and Martin Arellano have been responsible for making, keeping, and preserving records of the Las Trancas restaurants’ employees, including employees’ names, hours worked, rates of compensation, and total compensation.

8. The business activities of Defendants, as described herein, are and were related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of Section 3(r) of the Act.

9. At the Last Trancas restaurants, Defendants have employed and are employing employees in and about their places of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. The enterprise has had an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, the employees of the Las Trancas restaurants are employed in 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.

10. Defendants willfully violated the provisions of Sections 6 and 15(a)(2) of the Act by employing servers at Las Trancas Ripley in an enterprise engaged in commerce or in the

production of goods for commerce and compensating these servers at rates less than the applicable statutory minimum rate prescribed in Section 6 of the Act. Therefore, Defendants are liable for unpaid minimum wages and an equal amount of liquidated damages under Section 16(c) of the Act.

For example: At Las Trancas Ripley, Defendants failed to compensate servers for all hours worked.

11. Defendants willfully violated the provisions of Sections 7 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer than those prescribed in Section 7 of the Act without compensating said employees for employment in excess of the prescribed hours at rates not less than one and one-half times their regular rates. Therefore, Defendants are liable for the payment of unpaid overtime compensation and an equal amount of liquidated damages under Section 16(c) of the Act.

For example: At Las Trancas Clarksburg, Las Trancas Marietta, Las Trancas Charleston, Las Trancas Buckhannon, and Plaza Maya, a server would act as a back-up manager during the workweek to allow the regular manager a day off from work. On some occasions, Defendants paid partial overtime, usually when the server's hours exceeded forty hours during a workweek. On other occasions, Defendants paid the server a salary but failed to include this additional compensation in their overtime calculations. By paying the server a salary, regardless of how many overtime hours the server worked as a back-up manager, Defendants violated the overtime provisions of Sections 7 and 15(a)(2) of the Act. At Las Trancas Ripley, overtime violations occurred when employees worked for more than forty hours in a week but did not work more than eighty hours in a pay period. In these instances, Defendants paid the applicable statutory

minimum rate but did not pay overtime.

12. Defendants violated the provisions of Sections 11(c) and 15(a)(5) of the Act in that Defendants failed to make, keep, and preserve adequate and accurate records of their employees, which they were to maintain as prescribed by the regulations issued and found at 29 C.F.R. Part 516. For example, at Last Trancas Ripley, Defendants failed to make, keep, and preserve records by failing to preserve legible and identifiable time cards for all the workweeks. *See* 29 C.F.R. § 516.2(a). At their other locations, Defendants, *inter alia*, failed to record the hours servers worked as back-up managers.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendants providing the following relief:

(1) For an injunction issued 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 Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and

(2) For judgment pursuant to Section 16(c) of the Act finding Defendants liable for unpaid minimum wage and overtime compensation due to certain of Defendants' current and former employees listed in the attached Schedule A for the relevant periods at the Las Trancas restaurants, and for an equal amount due to certain of Defendants' current and former employees in liquidated damages. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of Defendants listed in the attached Schedule A for violations continuing after the relevant periods, and may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint;

or

(3) In the event liquidated damages are not awarded, for an injunction issued pursuant to Section 17 of the Act restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding the amount of unpaid minimum wages and overtime compensation found due Defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

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Solicitor of Labor

Oscar L. Hampton III  
Regional Solicitor

/s/ Avni Amin

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