

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

\*\*\*\*\*

R. ALEXANDER ACOSTA  
SECRETARY OF LABOR,  
United States Department of Labor,

Plaintiff,

v.

KLAUS RESTAURANTS, INC.  
d/b/a VILLAGE PIZZA AND GRILL, and  
KLAUNDJON TOTONI, President,

Defendants.

Civil Action No.  
1:17-cv-10767-LTS

\*\*\*\*\*

**CONSENT PRELIMINARY INJUNCTION AND ORDER**

Upon agreement of all parties, the Court, without making any findings of fact or conclusions of law, hereby

ORDERS, ADJUDGES AND DECREES that a preliminary injunction now issue:

1. Enjoining Defendants and their agents from, contrary to Section 15(a)(3) of the Fair Labor Standards Act (the "Act"), 29 U.S.C. § 215(a)(3), retaliating, including but not limited to taking or threatening any adverse employment action, against any employee, former employee, or potential witness for exercising his or her rights under the Act or for providing or seeking to provide information to the Secretary of Labor (the "Secretary") or any of his agents or representatives.
2. Enjoining Defendants and their agents from telling any employee, former employee or potential witness not to speak to, or to provide false information to,

agents or representatives of the Secretary, and enjoining the Defendants and their agents from otherwise coercing any employee, former employee or potential witness to make false statement(s) regarding any matter, including but not limited to the terms and conditions of their employment.

3. Ordering Defendants and their agents to exercise due diligence to comply with Sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), and the regulations found at 29 CFR Part 516, by making, keeping, and preserving accurate records of their employees and of the wages, hours, pay rates, and other conditions and practices of employment, including the exercise of due diligence to accomplish the following:

- a. Defendants and their agents shall maintain an accurate, unified and complete set of payroll records showing all gross and net amounts paid to employees, regardless of the manner of payment (e.g. cash or check) in each pay period.
- b. Defendants and their agents shall accurately record all hours worked by employees in the payroll records, including overtime hours.
- c. Defendants and their agents shall accurately record employees' pay rate(s) in the payroll record, regardless of whether employees are paid a regular hourly rate, overtime hourly rate, salary, a combination of the above, or by any other means.
- d. Defendants and their agents shall not falsify (or direct others to falsify) time records, including but not limited to timecards or electronic timekeeping entries, in any manner, including by reducing the number of hours worked.
- e. Defendants and their agents shall not request, require or otherwise cause employees to sign inaccurate timecards.
- f. Defendants and their agents shall not request, require or otherwise

cause employees to work “off the clock”, including but not limited to requiring employees to clean the restaurant, without compensation after closing, or shop for the restaurant, without compensation prior to reporting to the restaurant.

- g. Defendants and their agents shall not request or allow an employee to work at their establishment using the name or identification of another employee or a former employee.
  - h. Defendants and their agents shall not attempt to reclassify employees as independent contractors, contrary to the Act.
4. Enjoining Defendants and their agents from, contrary to Sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), employing any employees for workweeks longer than 40 hours, unless such employee receives compensation for his employment in excess of 40 hours at a rate not less than one and one-half times the regular rate at which he is employed.
5. Ordering Defendants to permit a representative of the Secretary to read aloud at Defendants’ restaurant, the “TheVillage Pizza”, located at 56 L Street, Boston MA, forthwith, in all languages which are the spoken languages of the employees, including but not limited to Portuguese, English and Spanish, during employees’ paid working hours but before the store opens for business or after the store closes for business, the following statement to all employees employed by Defendants:

*You are protected by a federal wage law called the Fair Labor Standards Act. This law requires your employer to pay you a minimum wage of at least \$7.25 per hour for all the hours you work, and overtime pay in the amount of 1.5 times your regular hourly rate for all hours you work over 40 in any week. This law also requires your employer to keep records that accurately show your true pay rate, total hours and total pay each week. This means that your employer must ensure all your hours are recorded accurately on a timecard or on the computer*

*timekeeping system, and must keep payroll records that show the total amount of all payments made to you whether by check or in cash. Your employer should never require you to perform work such as cleaning the restaurant or shopping for the restaurant "off the clock". The law prohibits your employer from falsifying records, or directing any employee to falsify records, such as by reducing employees' hours on the computer system, by instructing employees not to punch in on all days or for all hours you work, or by having employees sign inaccurate timecards.*

*The Fair Labor Standards Act also protects your right to speak freely with investigators or other officials from the Department of Labor. Your employer is prohibited from retaliating or discriminating against you in any way, including by terminating you, inflicting physical harm or verbal abuse on you, or threatening or coercing you in any way because you spoke with representatives of the Department of Labor or cooperated in any way with their investigation or with this lawsuit.*

*Your employers – Klaus Restaurants, Inc. and Klaudjon Totoni - have agreed to an order by the U.S. District Court for Massachusetts that prohibits them and anyone acting on their behalf, from terminating or retaliating against, threatening to terminate or retaliate against, or in any other way threatening employees or former employees who seek to provide information or otherwise cooperate with the Department of Labor. The order also prohibits your employers from telling any employee or former employee not to speak to the Department of Labor or to provide false information to the Department of Labor, and prohibits your employers from coercing any employee or former employee to make false statements about their employment.*

6. Requiring Defendants to post visibly at the restaurant, "The Village Pizza", located at 56 L Street, Boston, MA, in a location regularly accessed by employees, a hard copy of the statement referred to in ¶ 5, above, in all spoken languages of the employees including but not limited to Portuguese, English and Spanish, and requiring Defendants to provide each employee with a copy of the written statement, in all spoken languages of the employees, including but not

09/07/2018 15:23 7816479346

RECEIVED 12/15/2015 04:58AM  
LAW OFFICE

PAGE 06/07

limited to Portuguese, English, and Spanish, along with the written paystub provided to each employee with his or her next paycheck.

- 7. Defendants consent to the entry of this Order without admitting or denying liability, and represent that they have agreed to the entry of this Order as a showing of their good faith intent to comply with the Act.

It is so ordered.

/s/ Leo T. Sorokin  
Honorable Leo T. Sorokin  
United States District Judge

Dated: September 5, 2018

The parties hereby consent to the entry of this preliminary injunction.

Respectfully submitted,

Defendants:

KLAUS RESTAURANTS, INC., d/b/a VILLAGE PIZZA AND GRILL:

K. J. JORDAN  
Name: K. J. JORDAN  
Title: PR. SYNDICATE



KLAUNDJON TOTONI, an individual:

KLAUNDJON TOTONI  
Klaundjon Totoni

~~CO-COUNSEL~~ CO-COUNSEL

~~L. Richard LeClair, III~~  
L. Richard LeClair, III, Esquire  
LeClair & LeClair, P.C.  
707 Main Street  
PO Box 100

Plaintiff:

Post Office Address:  
U.S. Department of Labor  
Office of the Solicitor  
Trial Attorney, Room E-375  
Boston, Massachusetts 02203  
Salzberg.susan@dol.gov  
TEL: (617) 565-2500  
FAX: (617) 565-2142

Kate S. O'Scamlain  
Solicitor of Labor

Christine Eskilson  
Acting Regional Solicitor

/s/ Susan G. Salzberg: MA 556437  
Senior Trial Attorney  
U.S. Department of Labor

U.S. Department of Labor  
Attorneys for Plaintiff