



2. The Acting Secretary, through the Wage and Hour Division, conducted an investigation of Defendants for compliance with the FLSA. The Acting Secretary’s investigation reviewed Defendants’ employment and pay practices from July 6, 2020, through July 3, 2022 (the “Investigation Period”). Unless stated otherwise, all allegations and conditions described herein pertain to the Investigation Period.<sup>1</sup>

### **Jurisdiction and Venue**

3. This Court has jurisdiction of this case. 29 U.S.C. §§ 216(c), 217 and 28 U.S.C. § 1345.

4. This Court is the proper venue because all or a substantial part of the events or omissions giving rise to these allegations occurred in this judicial district.

### **Defendants**

5. Cascabel is a Michigan corporation within this Court’s jurisdiction with an office at 341 E. Liberty Street, Ann Arbor, Michigan 48104, where it conducts business.

6. Cascabel does business as Isalita and Mani Osteria & Bar, as two separate restaurants.

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<sup>1</sup> If Defendants continued to violate the FLSA after the Investigation Period, then the allegations and conditions of pay and employment disclosed are incorporated herein by reference and Defendants may owe additional back wages and liquidated damages to employees.

7. Isalita and Mani Osteria & Bar are located next to each other at 341 E. Liberty Street, Ann Arbor, Michigan 48104. Both restaurants have distinct themes but are otherwise operated under unified operations, and under common control for a common business purpose. Additionally, Cascabel's employees work at both restaurants.

8. Baru is the sole owner and operator of Cascabel. At all relevant times, Baru actively managed and supervised Cascabel's operations and its employees. Among other things, Baru has hired and fired employees, set their work schedules, set their pay rates, and established policies and procedures for both Isalita and Mani Osteria & Bar.

9. Baru has acted directly or indirectly in Cascabel's interests with respect to its employees and is therefore an "employer" under the FLSA. 29 U.S.C. § 203(d).

10. At all relevant times, Defendants engaged in business in Washtenaw County, within this Court's jurisdiction.

### **The FLSA Applies to Defendants**

11. Cascabel is an "enterprise" under the FLSA due to its related activities performed through unified operation or common control and for a common business purpose. 29 U.S.C. § 203(r)(1).

12. Cascabel is an “enterprise engaged in commerce” under the FLSA because it had (i) two or more employees who are engaged in or produced goods for commerce; and (ii) an annual gross volume of sales or business done greater than \$500,000 during the Investigation Period. 29 U.S.C. § 203(s)(1)(A).

### **FLSA Violations**

13. Defendants repeatedly violated § 207 and 215(a)(2) of the FLSA when they failed to pay their employees one-and-one-half times their regular rates for hours worked in excess of 40 in a workweek. Defendants paid kitchen staff only their regular rate for hours worked in excess of 40 in a workweek.

Defendants’ payroll and timekeeping records confirm this practice. 29 U.S.C. §§ 207(a)(1), 215(a)(2).

14. Moreover, Defendants repeatedly and willfully violated Sections 207 and 215(a)(2) of the FLSA, because Defendants knew or showed reckless disregard for whether the FLSA prohibited their conduct.

15. Specifically, Defendants acted willfully as a result of the following:

a. Prior to the onset of the COVID-19 Public Health Emergency, Defendants paid their employees, including kitchen staff, one-and-one-half times their regular rates for hours worked in excess of 40 in a workweek.

b. With the onset of the COVID-19 Public Health Emergency, Defendants began the practice of paying kitchen staff their regular rate for all hours worked, including those hours worked in excess of 40 in a workweek.

c. Defendants' payroll records include a breakdown of overtime hours worked by kitchen staff, but indicate they were paid only their regular rates for hours worked in excess of 40 in a workweek.

d. Defendants' payroll records also indicate that employees other than the kitchen staff were being paid overtime.

e. On at least one occasion, when a kitchen staff member asked Defendants why they were not being paid one-and-one-half times their regular rate for hours worked in excess of 40 in a workweek, Defendants claimed they were unable to pay kitchen staff the requisite rate for overtime.

f. However, on or about February 2021, Cascabel received a Paycheck Protection Program loan for \$942,736 from the U.S. Small Business Administration for its payroll expenses. The loan amount, including an additional \$7,955 in accrued interest, was eventually forgiven.

### **Remedies Sought**

16. As a result of their FLSA violations, Defendants owe the employees listed in Exhibit A back wages and liquidated damages under 29 U.S.C. §§ 216(c), 217. If Defendants continued to violate the FLSA after the Investigation Period, then Defendants may owe additional back wages and liquidated damages to employees.

17. Defendants may also owe additional back wages and liquidated damages during the Investigation Period to employees whose identities are presently unknown to the Acting Secretary.

18. Because Defendants repeatedly and willfully violated the FLSA, the Acting Secretary is entitled to recover back wages and liquidated damages for a three-year period. 29 U.S.C. § 255(a).

### **Prayer for Relief**

As a result of Defendants' repeated and willful FLSA violations, the Acting Secretary respectfully requests this Court enter an Order:

A. Permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those in active concert or participation with them, from violating Sections 7 and 15(a)(2) of the FLSA. 29 U.S.C. § 217(a).

B. Finding Defendants liable for unpaid overtime wages, plus an equal amount in liquidated damages, owing to the employees listed in Exhibit A, as well as to other of Defendants' employees not yet known to the Acting Secretary. 29 U.S.C. § 216(c).

C. If the Court declines to award liquidated damages, then enjoining and restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding unpaid compensation found owing to Defendants' employees, plus prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury under 26 U.S.C. § 6621.

D. Providing such other relief as may be necessary and appropriate.

E. Awarding costs and granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

**SEEMA NANDA**  
Solicitor of Labor

**CHRISTINE Z. HERI**  
Regional Solicitor

/s/ Maulik Sharma  
**MAULIK SHARMA**  
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**EXHIBIT A**

1. Noe Alonso
2. Rolando Arredondo
3. Javier Bolanos
4. Enrique Cerda-Sanchez
5. Juan Antonio Cervantes Cuevas
6. Alejandro Gongora Medina
7. Jose Raul Gonzalez-Rivera
8. Juan Herrera
9. Brayan Martinez Delgadillo
10. Esteban Martinez-Aguillar
11. Oscar Elias Medina
12. Eduardo Munoz Hernandez
13. Aldo Ramirez Vasquez
14. Oswaldo Ramos
15. Isidro Reyes Mora
16. Carlos Rivera Sifuentes
17. Rodrigo Rivera
18. Leonard Torres
19. Osbaldo Zambrano Medina
20. Juan Zambrano