

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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

v. )

Civil Action No.: 0:23-cv-3839

**SAN MIGUEL ENTERPRISES, LLC** )  
**d/b/a LA VAQUITA-SHORT STOP,** )  
**JIMENEZ GENAO, LLC d/b/a** )  
**LA VAQUITA-LV2, and** )  
**MARIELA JIMENEZ,** )  
 )  
Defendants. )

---

**COMPLAINT**

---

Pursuant to Section 217 of the Fair Labor Standards Act, of 1938, as amended (29 U.S.C. § 201 *et seq.*) (“FLSA”), Plaintiff, **Julie A. Su**, Acting Secretary of Labor, United States Department of Labor (“Acting Secretary”), brings this action to enjoin and restrain the Defendants **San Miguel Enterprises, LLC d/b/a La Vaquita-Short Stop** (“San Miguel”), **Jimenez Genao, LLC d/b/a La Vaquita-LV2** (“Jimenez”) and **Mariela Jimenez** (collectively, “Defendants”) from violating Sections 207, 211, 215(a)(2) and/or 215(a)(5) of the FLSA and to recover unpaid compensation, plus an equal amount in liquidated damages pursuant to Section 216(c) of the Act (29 U.S.C. § 216(c)) for Defendants’ employees.

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 at San Miguel

from July 8, 2020 through March 26, 2023 and Defendants' employment and pay practices at Jimenez from November 9, 2020 through March 26, 2023 (collectively, the "Investigation Periods"). Unless stated otherwise, all allegations and conditions described herein pertain to the Investigation Periods.<sup>1</sup>

### **Jurisdiction and Venue**

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

2. 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**

3. Defendant San Miguel is a Minnesota limited liability company within this Court's jurisdiction with an office at 7034 Cedar Avenue S, Richfield, Minnesota 55423, where it conducts business.

4. Defendant Jimenez is a Minnesota limited liability company within this Court's jurisdiction with an office located at 14239 Atwood Circle, Rosemount, Minnesota 55068 and place of business located at 607 East 77th Street, Richfield, Minnesota 55423.

---

<sup>1</sup> Defendants did not agree to comply with the FLSA at the conclusion of the investigation. If Defendants continued to violate the FLSA after the Investigation Periods, 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.

5. Defendants San Miguel and Jimenez operate grocery stores that sell general and specialty Mexican food products, prepared Mexican foods, and other grocery items.

6. Defendant Mariela Jimenez has actively managed and supervised both San Miguel and Jimenez's operations and its employees during the Investigation Periods. Among other things, Mariela Jimenez has hired and fired employees, determined pay policies and practices for San Miguel and Jimenez, and scheduled employees to work at one or both establishments.

7. Mariela Jimenez has acted directly or indirectly San Miguel and Jimenez's interests with respect to their employees and is therefore an "employer" under the FLSA. 29 U.S.C. § 203(d).

8. During the Investigation Period, Defendants engaged in business within Hennepin County, within this Court's jurisdiction.

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

9. San Miguel and Jimenez are an "enterprise" under the FLSA due to their related activities performed through unified operation or common control and for a common business purpose. 29 U.S.C. § 203(r).

10. Specifically, San Miguel and Jimenez are owned by the same co-owners; use the same logos and signage; sell the same specialty food products; and share employees.

11. San Miguel and Jimenez are an "enterprise engaged in commerce" under the FLSA, because they 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 Periods. 29 U.S.C. § 203(s)(1)(A).

### **FLSA Violations**

12. Defendants repeatedly violated Sections 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. 29 U.S.C. §§ 207(a)(1), 215(a)(2). Specifically:

- a. Defendants utilized an artificial regular rate pay scheme by: (i) setting an artificially low hourly rate of pay, (ii) paying overtime hours at one and one-half times the artificially low hourly rate of pay to make it appear they were paying the overtime premium for hours worked over 40 in a workweek, and (iii) mislabeling wages as purported discretionary “bonuses,” which should have been included in the employees’ regular rate of pay. Thus, when the purported discretionary “bonuses” are included in employees’ total compensation, their regular rates of pay are consistently higher than their purported hourly rates of pay.
- b. Defendants failed to pay the overtime premium in instances where employees worked at both establishments of San Miguel and Jimenez and, as a result, worked a cumulative total of more than 40 hours in a workweek.

c. Defendants misclassified certain overtime-eligible employees as exempt executive or administrative employees under Section 13(a)(1) of the FLSA and failed to pay those employees overtime compensation when they worked more than forty hours in a workweek. Specifically, pay records substantiate a violation of Section 207 for San Miguel employee Felix Morales between July 18, 2022, through November 6, 2022. During this time, Morales was misclassified as an exempt employee and paid a biweekly salary of \$1,040 for 120 hours of work. Because San Miguel did not pay Morales a weekly salary of at least \$684, as required under 29 C.F.R. §541.100, it misclassified him as an exempt employee under Section 213. 29 U.S.C. § 213(a)(1); 29 C.F.R. § 541.100.

13. Defendants repeatedly violated Sections 211 and 215(a)(5) of the FLSA when they failed to keep complete and accurate records. 29 U.S.C. §§ 211, 215(a)(5), 29 C.F.R. Part 516. Specifically, Defendants failed to make, keep, and preserve accurate time and payroll records of:

- a. the hours worked each workday and total hours worked each workweek by each employee;
- b. regular hourly rate of pay for any workweek in which overtime compensation is due;
- c. total daily or weekly straight-time earnings due for hours worked during the workday or workweek;

d. and total premium pay for overtime hours.

14. Moreover, Defendants repeatedly and willfully violated Sections 207 and 211 of the FLSA, because Defendants knew or showed reckless disregard for whether the FLSA prohibited their conduct.

15. Specifically, Defendants acted willfully because they were aware of their obligations to pay overtime and utilized a deceptive pay scheme to make it appear they were in compliance with the FLSA even though they were not in actuality paying the overtime premium for hours worked over 40 in a workweek. Upon information and belief, San Miguel and Jimenez's co-owners, including Defendant Mariela Jimenez, informed employees they paid all hours worked at straight time and they did not pay overtime.

### **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 207, 211, 215(a)(2), and 215(a)(5) 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 Acting 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/ Bharathi Pillai  
**BHARATHI PILLAI**  
U.S. Department of Labor  
Office of the Solicitor  
230 South Dearborn Street, Rm. 844  
Chicago, Illinois 60604  
(312) 886-6991  
[Pillai.bharathi@dol.gov](mailto:Pillai.bharathi@dol.gov)  
IL Bar #6319434

/s/ JoAnn G. Lim  
**JOANN G. LIM**  
U.S. Department of Labor  
Office of the Solicitor  
230 South Dearborn Street, Rm. 844  
Chicago, Illinois 60604  
(312) 353-6990  
[Lim.joann.g@dol.gov](mailto:Lim.joann.g@dol.gov)  
IL Bar #6300362

*Attorneys for Plaintiff Julie A. Su,  
Acting Secretary of Labor, United States  
Department of Labor*



**EXHIBIT A**

**San Miguel<sup>2</sup>**

1. M. Agustin\*
2. N. Agustin\*
3. A. A. Tarríos
4. L. B. Aguilar
5. E. B. Pliego\*
6. M. C. Mendez
7. A. Castellanos
8. J. Castellanos\*
9. A. Cruz
10. E. Espinoza\*
11. M. F. G. Rodriguez
12. F. Gonzalez
13. F. Gutierrez
14. L. Hernandez\*
15. M. H. Almanzar
16. L. L. Vazquez
17. H. L. Camacho
18. F. Morales
19. J. O. Fuentes
20. J. Ponce
21. D. R. Valle
22. E. R. Valle
23. L. R. Lopez
24. L. R. Diaz
25. V. Romero
26. S. S. Colins
27. H. Tejada
28. L. Tapia-Acosta
29. L. A. Vasquez
30. P. V. Lopes
31. E. Zuluaga

**Jimenez**

1. M. Agustin\*
2. N. Agustin\*
3. E. B. Pliego\*
4. J. Burgos
5. J. C. Chavez
6. R. C. Gomeso
7. J. Castellanos\*
8. J. Chinchilla
9. E. Espinoza\*
10. J. Espinoza
11. C. Esquivel
12. M. E. Soriano
13. I. F. Ciriaco
14. C. G. Esquivel
15. J. L. G. Tepozteco
16. E. Hernandez
17. L. Hernandez\*
18. A. I. Tapia
19. T. M. Justo
20. R. M. Lara
21. J. Pacheco
22. R. P. Lopez
23. U. P. Vidal
24. M. R. Valle
25. V. Romero
26. S. S. Colins

\*Shared employees

---

<sup>2</sup> Names have been redacted for privacy reasons. The Acting Secretary will provide Defendants with an unredacted list.