

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

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| JULIE A. SU , Acting Secretary of Labor, |) | |
| United States Department of Labor, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No.: 3:24-cv-1481 |
| |) | |
| R&R RESTAURANT GROUP, INC. , |) | |
| D/B/A IHOP; 2103 RESTAURANT |) | |
| GROUP, LLC, D/B/A IHOP; and |) | |
| KHALID RAMADAN, |) | |
| |) | |
| Defendants. |) | |
| |) | |

COMPLAINT

Pursuant to Section 217 of the Fair Labor Standards Act, of 1938, as amended (29 U.S.C. § 201 *et seq.*) (“FLSA” or “Act”), Plaintiff, **Julie A. Su**, Acting Secretary of Labor, United States Department of Labor (“Acting Secretary”), brings this action to enjoin and restrain the Defendants **R&R Restaurant Group, Inc., d/b/a IHOP** (“R&R Restaurant Group”), **2103 Restaurant Group, LLC, d/b/a IHOP** (“2103 Restaurant Group”) and **Khalid Ramadan** (collectively, “Defendants”) from violating Sections 206, 207, 211, 215(a)(2), and 215(a)(5) of the FLSA and to recover unpaid compensation—including compensation for violations of Section 203(m)(2) of the Act—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 from March 1, 2020, through February 28, 2022 (the "Investigation Period"). Unless stated otherwise, all allegations and conditions described herein pertain to the Investigation Period.¹

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 R&R Restaurant Group is a corporation within this Court's jurisdiction with an office at 1028 W Highway 50, O'Fallon, Illinois 62269, where it conducts business.
4. Defendant 2103 Restaurant Group is a corporation within this Court's jurisdiction with an office at 181 Homer Adams Parkway, Alton, Illinois 62022, where it conducts business.

¹ 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.

5. Defendants R&R Restaurant Group and 2103 Restaurant Group are IHOP franchises, operating full-service restaurants at their respective locations.

6. Defendant Khalid Ramadan has actively managed and supervised R&R Restaurant Group and 2103 Restaurant Group's operations and their employees during the Investigation Period. Ramadan is the sole owner of R&R Restaurant Group and 2103 Restaurant Group. Among other things, Ramadan has hired and fired employees, set their work schedules, and set their pay rates.

7. Ramadan has acted directly or indirectly in R&R Restaurant Group and 2103 Restaurant Group'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 Ramadan and R&R Restaurant Group engaged in business within St. Clair County, within this Court's jurisdiction.

9. During the Investigation Period, Defendants Ramadan and 2103 Restaurant Group engaged in business within Madison County, within this Court's jurisdiction.

The FLSA Applies to Defendants

10. R&R Restaurant Group and 2103 Restaurant Group are 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).

11. R&R Restaurant Group 2103 Restaurant Group 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 Period. 29 U.S.C. § 203(s)(1)(A).

FLSA Violations

Violations Related to R&R Restaurant Group—O’Fallon Location

12. Defendants R&R Restaurant Group and Ramadan repeatedly violated Sections 203(m)(2)(B) of the FLSA when they kept employees’ tips through an invalid tip pooling arrangement from March 1, 2020, to March 23, 2020, and from February 8, 2021, to February 28, 2022:

- a. Front-of-house staff were required to put a percentage of their gross sales into a tip pool,
- b. Defendants either kept the tips that front-of-house staff placed into the tip pool, or
- c. Defendants shared tips from the tip pool with back-of-house staff who would not customarily and regularly receive tips from customers.

13. Defendants R&R Restaurant Group and Ramadan repeatedly violated Sections 206 and 215(a)(2) of the FLSA when they failed to pay their employees at least \$7.25 per hour:

a. Defendants failed to compensate employees for all hours worked when they directed managers to delete hours employees worked when they were close to working more than 40 hours in a workweek.

b. By operating an invalid tip pool as described in paragraph 12, the Defendants cannot credit employee tips towards their obligation to pay minimum wage and must pay the difference between the tipped wage and minimum wage to all employees who were paid as tipped workers during the time Defendants operated the tip pool, in addition to paying employees their tips. 29 U.S.C. §§ 206(a)(1), 215(a)(2).

14. Defendants R&R Restaurant Group and Ramadan repeatedly violated Sections 207 and 215(a)(2) of the FLSA when they failed to pay their employees 1.5 times their regular rates for hours worked in excess of 40 in a workweek. Defendants paid several employees their regular rate for work in excess of 40 hours in a workweek and deleted servers' hours when they worked more than 40 hours in a workweek. 29 U.S.C. §§ 207(a)(1), 215(a)(2). Defendants also failed to use the applicable regular rate of pay when it calculated overtime pay, using the minimum tipped wage, rather the higher Illinois minimum wage. *Id.*; 29 C.F.R § 778.5.

15. Defendants R&R Restaurant Group and Ramadan repeatedly violated Sections 211 and 215(a)(5) of the FLSA when they failed to make and keep complete and accurate records. 29 U.S.C. §§ 211, 215(a)(5), 29 C.F.R. Part 516. Defendants failed to keep accurate records from R&R Restaurant Group of employees' payroll,

time worked, or contributions to the tip pool. Defendants also falsified timekeeping records by deleting hours employees worked.

16. Moreover, Defendants repeatedly and willfully violated Sections 203(m)(2), 206, 207, and 211 of the FLSA, because Defendants knew or showed reckless disregard for whether the FLSA prohibited their conduct.

17. Specifically, Defendants acted willfully when they operated an invalid tip pool and failed to pay minimum wage, to pay overtime, and to keep accurate records because Defendants had notice about the FLSA's requirements by virtue of a prior investigation by the Wage and Hour Division that disclosed violations under Sections 203(m), 206, 207, and 211 of the FLSA. To resolve this prior investigation, Defendant Ramadan paid back wages and agreed to future compliance by:

- a. maintaining a valid tip pool,
- b. maintaining accurate records of the tips collected and shared among tipped employees, and
- c. paying tipped employees the overtime premium rate based on federal minimum wage, or state minimum wage if higher.

Violations Related to 2103 Restaurant Group—Alton Location

18. Defendants 2103 Restaurant Group and Ramadan repeatedly violated Sections 203(m)(2)(B) of the FLSA when they kept employees' tips through an invalid tip pooling arrangement from March 1, 2020 to March 23, 2020, and from February 8, 2021, to February 28, 2022:

a. Front-of-house staff were required to put a percentage of their gross sales into a tip pool,

b. Defendants either kept the tips that front-of-house staff placed into the tip pool, or

c. Defendants shared tips from the tip pool with back-of-house staff who would not customarily and regularly receive tips from customers.

19. Defendants 2103 Restaurant Group and Ramadan repeatedly violated Sections 206 and 215(a)(2) of the FLSA when they failed to pay their employees at least \$7.25 per hour. By operating an invalid tip pool, as described in paragraph 18, the Defendants cannot no longer claim a tip credit and must pay the difference between the tipped wage and minimum wage to all employees who were paid as tipped workers during the time the tip pool was operated, in addition to paying employees their tips. 29 U.S.C. §§ 206(a)(1), 215(a)(2). *See also* 29 C.F.R. § 531.52(a).

20. Defendants 2103 Restaurant Group and Ramadan repeatedly violated Sections 207 and 215(a)(2) of the FLSA when they failed to pay their employees 1.5 times their regular rates for hours worked in excess of 40 in a workweek. Defendants failed to use the applicable rate of pay when it calculated overtime pay, using the minimum tipped wage, rather than the higher Illinois minimum wage. 29 U.S.C. §§ 207(a)(1), 215(a)(2); 29 C.F.R § 778.5.

21. Defendants 2103 Restaurant Group and Ramadan repeatedly violated Sections 211 and 215(a)(5) of the FLSA when they failed to make and keep complete accurate records. 29 U.S.C. §§ 211, 215(a)(5), 29 C.F.R. Part 516. Defendants failed to keep accurate records of 2103 Restaurant Group's employees' payroll, time worked, or contributions to the tip pool. Defendants also deleted hours employees worked.

22. Moreover, for the reasons identified above in item No. 19, Defendants 2103 Restaurant Group and Ramadan repeatedly and willfully violated Sections 203(m)(B), 206, 207, and 211 of the FLSA, because Defendants knew or showed reckless disregard for whether the FLSA prohibited their conduct.

Remedies Sought

23. As a result of their FLSA violations, Defendants owe the employees listed in Exhibit A back wages—including unpaid compensation due to overtime and minimum wage violations and tips unlawfully kept by Defendants—and an equal amount in 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.

24. 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.

25. 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 206, 207, 211, 215(a)(2), and 215(a)(5) of the FLSA. 29 U.S.C. § 217(a).

B. Finding Defendants liable for withheld tips, unpaid minimum and 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/ Correll L. Kennedy
CORRELL L. KENNEDY
Trial Attorney
U.S. Department of Labor
Office of the Solicitor
230 South Dearborn Street, Rm. 844
Chicago, Illinois 60604
Telephone No.: 312-353-2240
E-mail: kennedy.correll.l@dol.gov

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

Exhibit A

