

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIE A. SU, ACTING SECRETARY OF LABOR,)
UNITED STATES DEPARTMENT OF LABOR,)
)
Plaintiff,)

v.)

Civil No. 2:23-cv-01703

IKAROS GOURMET COMPANY d/b/a)
IKAROS GOURMET CO. INC. d/b/a)
SIMON’S FOOD CONCESSIONS, and)
SIMEON KOUTOUFARIS,)
)
)
Defendants.)

CONSENT JUDGMENT AND ORDER

Plaintiff Julie A. Su, Acting Secretary of Labor (“Plaintiff” or “the Acting Secretary”), United States Department of Labor (“DOL” or the “Department”), filed a Complaint in this case under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the “FLSA” or the “Act”) against Defendants Ikaros Gourmet Company d/b/a Ikaros Gourmet Co. Inc. d/b/a Simon’s Food Concessions, Simeon Koutoufaris, and Tina Koutoufaris (collectively the “Defendants”). Defendants, who have appeared by counsel and answered, agree to the entry of this Judgment without contest in full settlement of the FLSA claims that have been asserted by the Acting Secretary. It is therefore, upon motion of the attorneys for Plaintiff and for cause shown:

ORDERED, ADJUDGED, AND DECREED that Defendants, their officers, agents, servants, and all persons acting or claiming to act on their behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of Sections 6, 7, 11(a), 11(c), and 15 of the Act, in any manner, specifically:

1. Defendants, their officers, employees, agents, successors, employees and all persons in active concert or participation with Defendants, are permanently enjoined and restrained from violating the provisions of sections 11(a) and 15(a)(3) of the FLSA, 29 U.S.C. §§ 211(a) and 215(a)(3), including violating those provisions in any of the following manners:

a. Demanding employees return the money owed to them that Defendants agreed to pay to their employees pursuant to this Consent Judgment through their damages payment set forth in the below Paragraphs;

b. Harming or threatening to harm, terminating or threatening to terminate employment, blacklisting or threatening future employment, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against their employees in any other way, to prevent or otherwise dissuade an employee from speaking with the Department of Labor, or accepting the damages payment set forth in the below Paragraphs of this Consent Judgment referred to in this Consent Judgment, or engaging in any other protected activity under the Act;

c. Harming or threatening to harm, terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against their employees in any other way, based on Defendants' belief that such employee has spoken with the Department of Labor or engaged in any other protected activity under the Act;

d. Inflicting physical harm or verbal abuse on any employee, former employee their family, or Wage and Hour Division investigators because the employee or former employee engaged in or is about to engage in protected activity under the FLSA;

e. Reporting or threatening to report any employee or former employee to immigration authorities because the employee or former employee engaged in or is about to engage in protected activity under the FLSA;

f. Obstructing or interfering with the Acting Secretary's supervision of the distribution of damages payments pursuant to Paragraphs, below, in this Consent Judgment;

g. Telling any employees not to cooperate with the Acting Secretary's representatives; instructing any workers to provide incomplete or false information to the Acting Secretary's representatives; or questioning employees about their cooperation or communications with the Acting Secretary's representatives; and

h. Obstructing or interfering with the Acting Secretary's investigation conducted by the Wage and Hour Division.

2. Defendants shall not, contrary to Section 6 of the Act, pay to any of their employees working at 1412 Chelton Ave., Pittsburgh, PA 15226, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Sections 6 and 15(a)(2) of the

Act.

3. Defendants shall not, contrary to Section 7 of the Act, employ any of their employees including, but not limited to, any of their employees working 1412 Chelton Ave., Pittsburgh, PA 15226, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, in any workweek when they are engaged in commerce or employed in an enterprise engaged in commerce, within the meaning of the Act, for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the said employees receive compensation for their employment in excess of the prescribed hours at a rate equivalent to one and one-half times the regular rates applicable to them.

4. Defendants shall not fail to make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them including, but not limited to, any of their employees working at 1412 Chelton Ave., Pittsburgh, PA 15226, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, as prescribed by the Regulations issued pursuant to Section 11(c) and 15(a)(5) of the Act and found at 29 C.F.R. Part 516.

It is further ORDERED, ADJUDGED and DECREED by the Court that:

5. Further, the Court, finding that the Defendants owe \$15,000 which is broken down as follows: (a) Defendants owe employees \$10,146.50 in gross back wages and liquidated damages, as shown on attached Exhibit A, which is hereby incorporated by reference in this Consent Judgment; (b) Defendants owe employees \$4,853.50 in back wages, liquidated damages, compensatory, and punitive damages under Section 15(a)(3) of the FLSA, 29 U.S.C. §

215(a)(3), as shown on the attached Exhibit B, which is hereby incorporated by reference in this Consent Judgment.

It is further ORDERED, ADJUDGED and DECREED by the Court that:

6. Defendants are enjoined and restrained from withholding gross back wages in the sum total amount \$5,073.25, and are jointly and severally liable for the payment of \$5,073.25 in liquidated damages, due certain employees and former employees of Defendants set forth and identified in Exhibit A. Defendants are further jointly and severally liable for the payment of \$4,853.50 in back wages, liquidated damages, compensatory damages, and punitive damages, due to certain employees and former employees of Defendants set forth and identified in Exhibit B.

7. Defendants may make the above damages payment required by this Consent Judgment online by ACH transfer, credit card, or debit card by going to <https://www.pay.gov/public/form/start/77734139> or www.pay.gov. Alternatively, payment may be made by certified check, bank check, or money order, payable to “Wage and Hour Division, U.S. Department of Labor,” and mailed to the Northeast Regional Office, Wage and Hour Division, Wage & Hour Division, Northeast Regional Office, 1835 Market Street, Mailstop WHD/19, Philadelphia, PA 19103-2968. The check or money order shall bear the following reference: Case ID # 1984758.

i. The provisions of this Consent Judgment relative to back wage, punitive, compensatory, and liquidated damages payments shall be deemed satisfied when Defendants deliver to the designated representatives of the Plaintiff payment in the amount of \$15,000 within thirty (30) days of the entry of this Judgment by the Court.

ii. The Acting Secretary, through the Wage and Hour Division, shall distribute the

back wages (less any applicable federal taxes, withholdings, and deductions), compensatory, punitive, and liquidated damages payments to the employees and former employees, or to their estates, as set forth in Exhibits A and B. Any sums not distributed to the employees or former employees on Exhibits A or B, or to their estates, because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Treasurer of the United States pursuant to 29 U.S.C § 216(c).

iii. To the best of their ability and based upon information it currently has in its possession, Defendants shall provide to Plaintiff the social security number, last known address, last known phone number and last known email address of each employee or former employee due money under this Consent Judgment at the time of the initial lump sum payment.

iv. The provisions of this Consent Judgment shall not in any way affect any legal right of any individual not named in Exhibits A or B, nor shall the provisions in any way affect any legal right of any individual named in Exhibits A or B to file any action against Defendants for any violations alleged to have occurred outside the relevant period.

8. Defendants shall not, in any way, solicit, demand, accept, or keep any amount paid or payable to any employee or former employee under this Consent Judgment, or in any manner attempt to recover or otherwise influence any employee or former employee to forfeit any amounts paid to such employee or former employee in connection with this Consent Judgment. In the event any such amount is received from any employee or former employee, Defendants shall immediately remit such amount to the United States Department of Labor at the following address: United States Department of Labor, Wage and Hour Division, 1835 Market Street, Mailstop WHD/19, Philadelphia, Pennsylvania 19103-2968, Attn: Madelyn Flores.

9. Neither Defendants nor anyone on their behalf shall directly or indirectly solicit or

accept the return or refusal of any sums paid under this Consent Judgment. Any such amount shall be immediately paid to the Acting Secretary for deposit as above, and Defendants shall have no further obligations with respect to such returned monies. If recovered wages have not been claimed by the employee or the employee's estate within three years of the entry of this Consent Judgment, the Secretary shall deposit such money with the Treasury in accordance with Section 16(c) of the Act.

10. Further, the parties agree that the instant action is deemed to solely cover Defendants' business and operations for the relevant period for all claims arising under the Act (29 U.S.C. § 201, *et seq.*) as a result of the Acting Secretary's investigation. The parties agree that the filing of this action and the provisions of this Judgment shall not, in any way, affect, determine, or prejudice any and all rights of any person specifically named on Schedules A or B or the Acting Secretary for any period after November 5, 2023, or any persons, be they current or former employees, not specifically named on Schedule A or B, insofar as such rights are conferred and reserved to said employees by reason of Section 16(b) of the Act.

11. Defendants agree that they are employers within the meaning of Section 3(d) of the Fair Labor Standards Act, 29 U.S.C. § 203(d).

12. By entering into this Consent Judgment, Plaintiff does not waive her right to conduct future investigations of Defendants under the provisions of the FLSA and to take appropriate enforcement action, including assessment of civil money penalties pursuant to Section 16(e) of the FLSA, with respect to any violations disclosed by such investigations.

13. Nothing in this Consent Judgment precludes the Acting Secretary or Secretary of Labor from using evidence discovered in the investigation that led to the Complaint in this case in any future investigation, enforcement action, or legal action.

14. Each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

15. The Court retains jurisdiction over this matter for the purposes of enforcing this Consent Judgment.

SO ORDERED,

Dated: June 28, 2024

s/David Stewart Cercone
DAVID STEWART CERCONE
SENIOR U.S. DISTRICT COURT JUDGE