

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI, CENTRAL DIVISION**

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

*Plaintiff,*

v.

**DRAGON KITCHEN OF JEFFERSON  
CITY, INC., d/b/a DRAGON KITCHEN,  
and DANNY CHENG, individually,**

*Defendants.*

Civil Action No. 2:24-cv-4167

**COMPLAINT**

**COMPLAINT**

Pursuant to Section 217 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201, *et seq.* (“FLSA” or the “Act”), Plaintiff, Julie A. Su, Acting Secretary of Labor, United States Department of Labor (“Acting Secretary”), brings this action to enjoin and restrain Defendants Dragon Kitchen of Jefferson City, Inc., d/b/a Dragon Kitchen (“Dragon Kitchen”), and Danny Cheng, individually (“Mr. Cheng;” collectively, “Defendants”) from violating Sections 206, 207, 211, and 215(a)(2) of the Act and to recover compensation, plus an equal amount in liquidated damages pursuant to Section 216(c), for Defendants’ employees.

The Acting Secretary, through the Wage and Hour Division, conducted an investigation of Defendants for compliance with the FLSA. Ultimately, the Secretary’s investigation reviewed Defendants’ employment and pay practices from December 21, 2021, through December 20, 2023 (“Investigation Period”). Unless otherwise stated, all allegations and conditions described herein pertain to the Investigation Period.

## **JURISDICTION AND VENUE**

1. Jurisdiction of this action is conferred upon the Court by Sections 216(c) and 217 of the Act, 29 U.S.C. §§ 216(c), 217, as well as by 28 U.S.C. §§ 1331 and 1345.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred within this District.

3. Pursuant to Western District of Missouri Local Rule 3.2(b), because a substantial part of the underlying events herein occurred within Cole County, the appropriate civil divisional venue is the Federal Court in Jefferson City, Missouri.

## **DEFENDANTS**

4. Dragon Kitchen is a Missouri corporation within this Court's jurisdiction, with its headquarters and principal place of business located at 2219 Missouri Boulevard | Suite D, Jefferson City, Missouri 65109.

5. Dragon Kitchen is a full-service Chinese restaurant and buffet located in Jefferson City, Missouri.

6. Dragon Kitchen employed employees who worked as front-of-the-house servers and hosts, as well as back-of-the-house cooks, at its Jefferson City, Missouri location.

7. Defendant Danny Cheng has actively managed and supervised Dragon Kitchen's operations and employees from May 2014 through the present. Specifically, Defendant Cheng has overseen daily operations, hired and fired employees, established schedules, and set rates of pay.

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

9. During that time, Defendants engaged in business in Cole County, within this Court's jurisdiction.

### THE FLSA APPLIES TO DEFENDANTS

10. Dragon Kitchen 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).

11. Dragon Kitchen is an “enterprise engaged in commerce” under the FLSA, because it had both: (i) more than two (2) employees who engaged in, or produced goods for, commerce; and (ii) an annual dollar volume greater than \$500,000 for years 2021, 2022, and 2023. 29 U.S.C. § 215(a)(2).

### DEFENDANTS’ FLSA VIOLATIONS

12. Defendants willfully and repeatedly violated Sections 206 and 215(a)(2) of the Act by compensating certain of the employees listed in *Exhibit A* at rates less than the applicable statutory minimum wage rate. Defendants are therefore liable for unpaid minimum wages and an equal amount in liquidated damages under Section 216(c) of the FLSA.

13. During the Investigation Period, Defendants failed to pay front-of-the-house employees an actual wage. Specifically, server employees were only paid via direct cash and credit tips from customers. Under Sections 206 and 215(a)(2) of the Act, Defendants were required to pay these employees the federal minimum wage rate of \$7.25 per hour.

14. Defendants willfully and repeatedly violated Sections 207 and 215(a)(2) of the Act by compensating the employees listed in *Exhibit A* at rates less than the statutory premium overtime wage rate required by Section 207 of the FLSA. Defendants are therefore liable for unpaid overtime wages and an equal amount in liquidated damages under Section 216(c) of the Act.

15. During the Investigation Period, Defendants failed to pay their employees one-and-one-half times their regular rate for hours worked in excess of 40 in a workweek.

16. Specifically, Defendants violated Section 207 of the FLSA when they paid front-of-the-house employees straight time rates of pay for hours worked in excess of 40 in a single workweek. § 207(a)(1); § 215(a)(2).

17. Further, Defendants violated Section 207 of the FLSA when they paid back-of-the-house employees a cash salary that was insufficient to compensate covered employees at the statutory premium overtime wage rate for hours worked in excess of 40 in a workweek.

18. Sections 211 and 215 of the FLSA require employers to make, keep, and preserve adequate and accurate records under 29 C.F.R. Part 516. *See* § 211(c); § 215(a)(5).

19. Defendants violated Sections 211 and 215 of the FLSA by failing to make, keep, and preserve adequate and accurate time records regarding their employees. Specifically, when they failed to keep payroll records of the following information: (1) employees' full names and social security numbers; (2) time and day of week employees' workweek begins; (3) hours worked each day; (4) total hours worked each workweek; (5) regular hourly pay rate; (6) total daily or weekly straight-time earnings; and (7) total overtime earnings for the workweek.

#### **REMEDIES SOUGHT**

20. 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 continue to violate the FLSA after the Investigation Period, then Defendants may owe additional back wages and liquidated damages to employees.

21. Defendants may also owe additional back wages and liquidated damages, during the Investigation Period, to their employees whose identities the Acting Secretary does not currently know.

22. As a result of their FLSA violations, Defendants have unlawfully withheld unpaid compensation from their employees.

23. Moreover, Defendants repeatedly and willfully violated Sections 206, 207, 211, and 215(a)(2) of the FLSA, because Defendants knew or showed reckless disregard for whether the Act prohibited their conduct.

24. Specifically, Defendants acted willfully when they failed to pay front-of-the-house employees an hourly wage rate and paid back-of-the-house employees a cash salary that was insufficient to compensate such employees for all hours worked or cover statutorily-required premium overtime wage rates.

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

#### **PRAYER FOR RELIEF**

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

a. Permanently enjoining and restraining Defendants from continuing to withhold employees' unpaid minimum wage and overtime compensation, which the Courts find due under the FLSA. 29 U.S.C. § 217(a);

b. Permanently enjoining and restraining Defendants from violating Section 206, 207, 211, and 215 of the FLSA. 29 U.S.C. § 217(a);

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

d. 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 all wages found owing to Defendants' employees, plus prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621;

e. Finding Defendants *willfully* violated Sections 206, 207, 211, and 215 of the FLSA under 29 U.S.C. § 255(a);

f. Providing such other relief as this Court deems just and appropriate; and

g. Awarding costs.

**Dated: September 17, 2024**

**SEEMA NANDA**  
Solicitor of Labor

**CHRISTINE Z. HERI**  
Regional Solicitor

**EVERT H. VANWIJK**  
Associate Regional Solicitor

**QUINLAN B. MOLL**  
Trial Attorney

/s/ Boyce N. Richardson  
**BOYCE N. RICHARDSON**  
Trial Attorney (Mo. Bar No. 62509)

OFFICE OF THE SOLICITOR  
U.S. DEPARTMENT OF LABOR  
2300 Main Street | Suite 10100  
Kansas City, MO 64108  
(816) 285-7270 (Direct)  
(816) 285-7287 (Fax)  
Richardson.Boyce.N@dol.gov  
sol.kc.docket@dol.gov

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

**EXHIBIT A**