

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**JUANA MONTANO-PÉREZ,
MARIA REMEDIOS CERVANTES-CANO,
DALILA CONTRERAS-MARTÍNEZ,
MERCEDES GOMEZ-EUGENIO,
MARIA RAMIREZ-MENDOZA,
FLORA RIVERA-PABLO,
SARAÍ CONTRERAS-MARTÍNEZ,
LUCIANA MORENO-LOPEZ,
TERESA AYALA-ROSALES,
CIRILO CASTILLO-AMARO,
CARLOS RIVERA PABLO
and, ALVARO SALAZAR RAMIREZ**

Plaintiffs,

v.

**DURRETT CHEESE SALES, INC.,
GREG DURRETT, CHARLES JONES (in his
individual and official capacity as officer of the Coffee
County Sheriff’s Department), RYAN BARKER (in his
individual and official capacity as officer of the Coffee
County Sheriff’s Department), CHAD PARTIN (in his
individual and official capacity as officer of the Coffee
County Sheriff’s Department) PAM FREEMAN (in her
individual and official capacity as Captain of the Coffee
County Sheriff’s Department), STEVE GRAVES, (in his
Individual and official capacity as Sheriff of Coffee County
Sheriff’s Department) and COFFEE COUNTY
TENNESSEE.**

Defendants.

Civ. No.

Complaint

COMPLAINT

PRELIMINARY STATEMENT

Plaintiffs in this lawsuit are indigent Mexican worker, who were victims of wage theft, discrimination, and retaliation. A majority of the Plaintiffs are members of the Mixteco indigenous group and speak Spanish as a second language. Plaintiffs' employers, Defendants Durrett Cheese Sales, Inc. ("Durrett Cheese") and Greg Durrett ("Durrett") (collectively, "the Durrett Defendants") repeatedly refused to pay Plaintiffs for numerous weeks of work on Defendants' operations. Defendants also subjected Plaintiffs to an offensive, hostile and intimidating environment because of Plaintiffs' national origin and race. When Plaintiffs gathered peacefully to assert their rights to be paid for their work, Defendants refused to pay them, and instead called upon Defendants Coffee County and Coffee County Sheriff Steve Graves ("Graves"), Sheriff's Captain Pam Freeman ("Freeman"), and Sheriff's Deputies Chad Partin ("Partin"), Charles Jones ("Jones"), and Ryan Barker ("Barker") (collectively, "the Coffee County Defendants") to assist them in retaliating against Plaintiffs. The Durrett Defendants and Coffee County Defendants conspired to have Plaintiffs arrested on false trespassing charges, jailed, and turned over to Immigration and Customs Enforcement (ICE) to punish Plaintiffs for demanding their lawfully owed wages. Plaintiffs seek redress for Defendants' retaliatory and discriminatory actions pursuant to the Fair Labor Standards Act (hereinafter "FLSA"), 29 U.S.C. §§ 215-216; 42 U.S.C. §§ 1981, 1983 and 1985; the Tennessee Human Rights Act, Tenn. Code Ann. §4-21-101 *et seq.* ("THRA"), and state tort law.

II. JURISDICTION AND VENUE

1. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction); 29 U.S.C. § 216(b) (FLSA), and 28 U.S.C. § 1343 (civil rights). Declaratory and injunctive relief are sought under 28 U.S.C. § 2201 *et seq.*

2. The Court has supplemental jurisdiction over related state law claims asserted herein pursuant to 28 U.S.C. § 1367. Supplemental jurisdiction is appropriate because Plaintiffs' state law claims under the THRA, T.C.A. §4-21-101 et seq., and state tort law share a common nucleus of operative fact with Plaintiffs' federal claims.

3. Within three hundred (300) days of the adverse and discriminatory action taken against Plaintiffs by Defendants, Plaintiffs filed charges of discrimination with the United States Equal Employment Opportunity Commission (EEOC) and cross-filed charges with the Tennessee Human Rights Commission (THRC). These administrative proceedings have not reached resolution.

4. Venue for this action properly lies in the United States District Court for the Middle District of Tennessee at Nashville pursuant to 28 U.S.C. § 1391(b) and (c) because one or more Defendants reside or may be deemed to reside in this district. Defendant Durrett resides in the district and Defendant Durrett Cheese may be deemed to reside in this district based on its contacts with the district.

III. THE PARTIES

Plaintiffs

5. Plaintiff Juana Montano-Perez is a Latina of Mexican national origin and a resident of Tennessee. She speaks Spanish as her primary language and has limited English proficiency. Plaintiff Montano-Perez was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately July 2007 through October 22, 2007. Plaintiff Montano-Pérez asserts her Count I FLSA claim as authorized by 29 U.S.C. § 216(b). Juana Montano-Pérez's consent to sue form is attached hereto as part of composite Exhibit 1.

6. Plaintiff Maria Remedios Cervantes-Cano is a Latina of Mexican national origin and, during all times relevant to this action, was a resident of Tennessee. She speaks Spanish as her primary language and has limited English proficiency. Plaintiff Cervantes-Cano was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately September 2007 through October 22, 2007. Plaintiff Cervantes-Cano asserts her Count I FLSA claim as authorized by 29 U.S.C. § 216(b). Maria Remedios Cervantes-Cano's consent to sue form is attached hereto as part of composite Exhibit 1.

7. Plaintiff Dalila Contreras-Martínez is a Latina of Mexican national origin and is a resident of Tennessee. She speaks Spanish as her primary language and has limited English proficiency. Plaintiff Contreras-Martínez was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately February 2007 through October 22, 2007. Plaintiff Contreras-Martínez asserts her Count I FLSA claim as authorized by 29 U.S.C. § 216(b). Dalila Contreras-Martínez's consent to sue form is attached hereto as part of composite Exhibit 1.

8. Plaintiff Mercedes Gomez-Eugenio is a Latina of Mexican national origin and a member of the Mixteco indigenous group. She is a resident of Tennessee. She speaks Mixteco as her primary language and has limited Spanish and English proficiency. Plaintiff Gomez-Eugenio was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately February 2007 through October 22, 2007. Plaintiff Gomez-Eugenio asserts her Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Mercedes Gomez-Eugenio's consent to sue form is attached hereto as part of composite Exhibit 1.

9. Plaintiff Maria Ramirez-Mendoza is a Latina of Mexican national origin and is a member of the Mixteco indigenous group. She is a resident of Tennessee. She speaks Mixteco as her primary language and has limited Spanish and English proficiency. Plaintiff Ramirez-Mendoza was employed by Defendant Durrett and Defendant Durrett as a factory worker at various points in 2006 and 2007. Plaintiff Ramirez-Mendoza asserts her Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Maria Ramirez-Mendoza's consent to sue form is attached hereto as part of composite Exhibit 1.

10. Plaintiff Flora Rivera-Pablo is a Latina of Mexican national origin and is a member of the Mixteco indigenous community. She is a resident of Tennessee. She speaks Mixteco as her primary language and has limited English proficiency. Plaintiff Flora Rivera-Pablo was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately August 2007 through October 22, 2007. Plaintiff Flora Rivera-Pablo asserts her Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Flora Rivera-Pablo's consent to sue form is attached hereto as part of composite Exhibit 1.

11. Plaintiff Saraí Contreras-Martínez is a Latina of Mexican national origin and, she is a resident of Tennessee. She speaks Spanish as her primary language and has limited English proficiency. Plaintiff Contreras-Martinez was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately August 2007 through October 22, 2007. Plaintiff Contreras-Martínez asserts her Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Saraí Contreras-Martínez's consent to sue form is attached hereto as part of composite Exhibit 1.

12. Plaintiff Luciana Moreno-Lopez is a Latina of Mexican national origin and is an indigenous Mixteca. She is a resident of Tennessee. She speaks Mixteco as her primary

language and has limited Spanish and English proficiency. Plaintiff Moreno-Lopez was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately October 2006 through October 22, 2007. Plaintiff Moreno-Lopez asserts her Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Luciana Moreno-Lopez's consent to sue form is attached hereto as part of composite Exhibit 1.

13. Plaintiff Teresa Ayala-Rosales is a Latina of Mexican national origin and is a member of the Mixteco indigenous group. She is a resident of Tennessee. She speaks Mixteco as her primary language and has limited Spanish and English proficiency. Plaintiff Ayala-Rosales was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately September 2007 through October 22, 2007. Plaintiff Ayala-Rosales asserts her Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Teresa Ayala-Rosales' consent to sue form is attached hereto as part of composite Exhibit 1.

14. Plaintiff Cirilo Castillo-Amaro is a Latino of Mexican national origin and is a resident of Tennessee. He speaks Spanish as his primary language and has limited English proficiency. Plaintiff Castillo-Amaro was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker during the month of October 2007. Plaintiff Castillo-Amaro asserts his Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Cirilo Castillo-Amaro's consent to sue form is attached hereto as part of composite Exhibit 1.

15. Plaintiff Carlos Rivera-Pablo is a Latino of Mexican national origin and a member of the Mixteco indigenous group. During all times relevant to this action, was a resident of Tennessee. He speaks Mixteco as his primary language and has limited English proficiency. Plaintiff Carlos Rivera-Pablo was employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker from approximately September 2007 through October 22, 2007. Plaintiff

Carlos Rivera-Pablo asserts his Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Carlos Rivera-Pablo's consent to sue form is attached hereto as part of composite Exhibit 1.

16. Plaintiff Alvaro Salazar-Ramirez is a Latino of Mexican national origin and is a member of the Mixteco indigenous group. During all times relevant to this action, was a resident of Tennessee. He speaks Mixteco as his primary language and has limited Spanish and English proficiency. Plaintiff Salazar-Ramirez employed by Defendant Durrett Cheese and Defendant Durrett as a factory worker during the month of October 2007. Plaintiff Salazar-Ramirez asserts his Count I claim under the Fair Labor Standards Act as authorized by 29 U.S.C. § 216(b). Alvaro Salazar-Ramirez's consent to sue form is attached hereto as part of composite Exhibit 1.

17. At all relevant times, Plaintiffs were engaged in interstate commerce and/or in the production of goods for sale in interstate commerce.

18. At all relevant times, Plaintiffs were employees within the definition of 29 U.S.C. § 203(e).

Defendants

The Durrett Defendants

19. Defendant Durrett Cheese Sales, Inc. is a corporation engaged in the business of processing, converting, and packaging dairy products for sale in interstate commerce.

20. Durrett Cheese was incorporated in Rutherford County, Tennessee and its registered agent resides in Murfreesboro, Tennessee. Defendant Durrett Cheese maintains a business establishment at 188 Volunteer Court, Manchester, Tennessee 37355. At all times relevant to this action, Defendant Durrett Cheese may be deemed to have resided in and conducted business in the Middle District of Tennessee.

21. At all relevant times during this action, Defendant Durrett Cheese employed the Plaintiffs within the meaning of 29 U.S.C. § 203(g).

22. At all relevant times to this action, Defendant Durrett Cheese was a “person” as defined at 29 U.S.C. § 203(a), an “employer” as defined at 29 U.S.C. § 203(d) and was “any person” within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

23. At all times relevant to this action, Defendant Durrett Cheese was a “person” within the meaning of 42 U.S.C. § 1985.

24. At all times relevant to this action, Defendant Durrett Cheese was an “employer” as defined by Tenn. Code Ann. §4-21-102(4).

25. Defendant Greg Durett is President of Defendant Durrett Cheese. At all times relevant to this action, Defendant Durrett resided in Murfreesboro, Tennessee and conducted business in the Middle District of Tennessee.

26. At all relevant times during this action, Defendant Durrett employed the Plaintiffs within the meaning of 29 U.S.C. § 203(g).

27. At all relevant times to this action, Defendant Durrett was a “person” as defined at 29 U.S.C. § 203(a), an “employer” as defined at 29 U.S.C. § 203(d) and was “any person” within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

28. At all times relevant to this action, Defendant Durrett was a “person” within the meaning of 42 U.S.C. § 1985.

29. At all relevant times, the Durrett Defendants operated and/or were employed in enterprises engaged in interstate commerce or in the production of goods for interstate commerce.

The Coffee County Defendants

30. Defendant Coffee County is a local government entity located in Tennessee.

31. At all times relevant to this action, Defendant Coffee County was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

32. During all times relevant to this action, Defendant Steve Graves served as Sheriff of Coffee County, Tennessee and resided in the Manchester, Tennessee area.

33. In his official capacity and at all times relevant to this action, Defendant Graves was the final policy maker on matters of law enforcement in Coffee County, including with respect to decisions to arrest and detain individuals, as well as decisions whether to refer arrested or detained individuals to the attention of ICE or other federal agencies.

34. At all relevant times to this action, Defendant Graves was a “person” as defined at 29 U.S.C. § 203(a) and was “any person” within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

35. At all times relevant to this action, Defendant Graves was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

36. During all times relevant to this action, Defendant Pam Freeman resided in the Manchester, Tennessee area, and served as a Captain of the Sheriff’s Department of Coffee County, Tennessee.

37. At all relevant times to this action, Defendant Freeman was a “person” as defined at 29 U.S.C. § 203(a) and was “any person” within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

38. At all times relevant to this action, Defendant Freeman was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

39. During all times relevant to this action, Defendant Charles Jones resided in the Manchester, Tennessee area, and served as a deputy and/or investigating officer with the Sheriff's Department of Coffee County, Tennessee.

40. At all relevant times to this action, Defendant Jones was a "person" as defined at 29 U.S.C. § 203(a) and was "any person" within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

41. At all times relevant to this action, Defendant Jones was a "person" within the meaning of 42 U.S.C. §§ 1983 and 1985.

42. During all times relevant to this action, Defendant Ryan Barker resided in the Manchester, Tennessee area, and served as a deputy and/or investigating officer with the Sheriff's Department of Coffee County, Tennessee.

43. At all relevant times to this action, Defendant Barker was a "person" as defined at 29 U.S.C. § 203(a) and was "any person" within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

44. At all times relevant to this action, Defendant Barker was a "person" within the meaning of 42 U.S.C. §§ 1983 and 1985.

45. During all times relevant to this action, Defendant Chad Partin resided in the Manchester, Tennessee area, and served as a deputy and/or investigating officer with the Sheriff's Department of Coffee County, Tennessee.

46. At all relevant times to this action, Defendant Partin was a "person" as defined at 29 U.S.C. § 203(a) and was "any person" within the meaning of the anti-retaliation provisions of the FLSA as set forth at 29 U.S.C. § 215(a)(3).

47. At all times relevant to this action, Defendant Partin was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

IV. STATEMENT OF FACTS

48. Plaintiffs are Latino immigrants who come from impoverished regions of Mexico. Plaintiffs speak Mixteco, an indigenous Mexican language, and/or Spanish as their primary language.

49. At various points throughout 2006 and 2007, the Durrett Defendants’ supervisor, Shanna Ramirez, recruited and hired Plaintiffs to work at the Durrett Defendants’ operations. Ms. Ramirez targeted her recruitment efforts towards the Mexican immigrant community, and in particular, targeted members of the Mixteco community in the Manchester, Tennessee area. At times, Ms. Ramirez visited Plaintiffs in their homes to convince them to accept employment with the Durrett Defendants. At all relevant times, Ms. Ramirez was acting as an agent and employee of the Durrett Defendants.

50. Plaintiffs performed various jobs in the Durrett Defendants’ operations, including in line jobs slicing, packaging, and other activities related to processing cheese for sale.

51. When Plaintiffs were hired, they understood that Defendant Durrett Cheese would pay them on a weekly basis at an hourly rate between approximately \$6.00 to \$6.75 an hour.

52. Upon information and belief, nearly all of the non-supervisory line jobs in Defendant Durrett Cheese’ factory were held by Latino workers of Mexican descent.

53. Ms. Ramirez, who served as Plaintiffs’ direct supervisor on a day-to-day basis, repeatedly made offensive comments to Plaintiffs referencing their race and/or national origin and attempted to humiliate Plaintiffs. Ms. Ramirez was particularly abusive toward the members of the Mixteco indigenous group. For example, Ms. Ramirez called Plaintiffs a barrage of

discriminatory and offensive names, such as “stupid Indians” and “donkeys.” Ms. Ramirez also made derogatory comments about Plaintiffs’ language and customs, among other things.

54. Ms. Ramirez’s repeated discriminatory and offensive statements resulted in an hostile and intimidating workplace environment that negatively impacted Plaintiffs employment conditions.

55. The Durrett Defendants frequently failed to timely pay Plaintiffs an average of the appropriate federal minimum wage for each hour of work they performed during each workweek.

56. On August 8, 2007, Defendant Durrett Cheese filed for bankruptcy protection pursuant to Chapter 11 of the bankruptcy code.¹ 11 U.S.C. §101 et seq.

57. After Defendant Durrett Cheese’s bankruptcy filing, Defendants Durrett Cheese and Durrett persisted in failing to timely pay Plaintiffs an average of the appropriate federal minimum wage for each hour of work performed by Plaintiffs during each workweek.

58. During many workweeks in mid- and late August and September and October 2007, Defendants Durrett Cheese and Durrett grossly underpaid Plaintiffs. During multiple workweeks, Defendants Durrett Cheese and Durrett refused to pay Plaintiffs any wages for work performed. On some occasions, Plaintiffs worked over a month without receiving any pay at all.

59. To further avoid timely paying Plaintiffs after Defendant Durrett Cheese filed its bankruptcy petition, Defendants Durrett Cheese and Durrett repeatedly postponed the dates on which they were supposed to pay Plaintiffs.

¹ Plaintiffs only seek redress for conduct which occurred and claims which accrued after Defendant Durrett Cheese’s bankruptcy filing. Therefore their claims against Defendant Durrett Cheese are not subject to the jurisdiction of the bankruptcy court. 11 U.S.C. § 362. Out of an abundance of caution, however, Plaintiffs have moved the bankruptcy court for express authorization for proceeding with their post-petition claims against Defendant Durrett Cheese in this action. See Exhibit 1.

60. Plaintiffs regularly requested their unpaid wages throughout mid- and late August 2007 and September and October 2007, often approaching Ms. Ramirez in groups to inquire about their pay. Defendants Durrett Cheese and Durrett, acting through Ms. Ramirez, repeatedly refused to promptly pay Plaintiffs the wages owed them.

61. During some periods in mid- and late August 2007 and September and October 2007 when Plaintiffs worked without pay, Ms. Ramirez coerced Plaintiffs to continue working by threatening that Plaintiffs would not receive any of the back wages owed them if they quit their jobs. Ms. Ramirez also told Plaintiffs that if they worked harder or attained higher production levels, Plaintiffs would receive the balance of back wages owed them.

62. Upon information and belief, non-Latino workers and workers not of Mexican national origin did not suffer the same severe and prolonged non-payment and underpayment of wages suffered by Plaintiffs, nor did Ms. Ramirez threaten or manipulate non-Latino workers and workers not of Mexican national origin in order to coerce continued employment with the Durrett Defendants.

63. On and around Friday, October 19, 2007, Plaintiffs repeatedly requested of Ms. Ramirez that the Durrett Defendants pay them for several weeks of unpaid wages. Ms. Ramirez informed Plaintiffs that they would not be paid until the following Monday.

64. After the Plaintiffs learned that their pay was again delayed, they met to plan a collective action to protest continued nonpayment of wages.

65. Plaintiffs arrived at work on Monday, October 22, 2007. During their usual mid-morning break period on Monday, October 22, 2007, Plaintiffs assembled in Defendant Durrett Cheese's break room and spoke to Ms. Ramirez to request their overdue paychecks.

66. In response, Ms. Ramirez told Plaintiffs that they would not receive a paycheck until Defendant Durrett arrived. Ms. Ramirez demanded that Plaintiffs return to work without a paycheck, or leave. Ms. Ramirez told Plaintiffs that if they left, they should not come back. Ms. Ramirez further suggested if Plaintiffs left, she did not know if they would receive the back wages owed them if they left.

67. Plaintiffs refused to return to work, stating that they would do so only when they received the wages owed them. In response, Ms. Ramirez informed Plaintiffs that they were fired and demanded that they leave the company premises. Plaintiffs stated to Ms. Ramirez that they would leave the premises once they received the wages owed them.

68. After Plaintiffs continued to wait in the break room, Ms. Ramirez conferred with Ron Girts, a fellow supervisor, and Defendant Durrett. Upon information and belief, Defendant Durrett instructed that Ms. Ramirez or Mr. Girts call the Coffee County Sheriff's Department.

69. Ms. Ramirez called the Coffee County Sheriff's Department and requested that officers come to Defendant Durrett Cheese's operations to deal with Plaintiffs. Coffee County Sheriff's Department Officers Jones, Partin, and Barker responded to this call.

70. When Defendants Barker, Partin, and Jones arrived at Defendant Durrett Cheese's plant, Defendants Ramirez and Girts, as well as the Plaintiffs, stated that they were engaged in a dispute over unpaid wages. Defendants Barker, Partin, and Jones explicitly noted this fact in their report summarizing their response to Ms. Ramirez's request for assistance.

71. Ms. Ramirez and/or Mr. Girts also told Defendants Jones, Partin, and Barker that Plaintiffs were undocumented immigrants and should be reported to ICE. Upon information and belief, Defendants Ramirez and/or Girts supplied Defendants Jones, Partin and Barker with paperwork to assist the Coffee County Defendants in reporting Plaintiffs to ICE.

72. Defendants Barker, Partin, and/or Jones told Plaintiffs that if they did not leave Defendant Durrett Cheese's premises, Plaintiffs would be arrested and taken to the Coffee County jail.

73. Plaintiffs expressed their intent to remain in the Durrett Cheese break room in order to receive their overdue wage payments.

74. Defendants Barker, Partin, and Jones then arrested Plaintiffs, loaded them into a sheriff's department van, and transported them to Coffee County jail in Manchester, Tennessee.

75. Upon information and belief, Defendants Barker, Partin, and Jones arrested and transported Plaintiffs to the Coffee County jail after describing the situation to Defendants Graves and/or Freeman and at the instruction of Defendants Graves and/or Freeman.

76. As Defendants Barker, Partin, and Jones arrested Plaintiffs, Defendants Barker, Partin, and Jones, in addition to and concert with Ms. Ramirez, laughed at Plaintiffs, referenced Plaintiffs' race and national origin, and made statements regarding their intent to send Plaintiffs "back to Mexico."

77. Plaintiffs' work stoppage was at all times peaceful, lawful, and confined to Defendant Durrett Cheese's break room. At no time did Plaintiffs congregate in any work areas or otherwise obstruct the conduct of business at Defendant Durrett Cheese. Nor did Plaintiffs attempt to stop any other Durrett workers who did not wish to participate in Plaintiffs' protest from returning to work. Plaintiffs' non-violent work stoppage lasted approximately two hours or less.

78. At the Coffee County jail, Plaintiffs were booked on charges of trespassing and subsequently detained. During this time, Plaintiffs were separated from their families, including their young children, some of whom are disabled or very ill, and were fearful of what would

happen to their families and themselves. Plaintiffs were forced to sleep on mattresses in a crowded jail cell, and were denied free access to restroom facilities.

79. The very next day, October 23, 2007, the district attorney for Coffee County affirmatively acted to drop all charges against Plaintiffs.

80. Upon information and belief, Defendants Graves and Freeman consulted with the Durrett Defendants and reached agreement regarding how the matter involving Plaintiffs should be handled. With full knowledge and awareness of the Durrett Defendants' unlawful retaliatory and discriminatory motives and intent, and in consultation and agreement with the Durrett Defendants, Defendants Graves decided that the Sheriff's Department would continue to detain Plaintiffs at the Coffee County jail and would report Plaintiffs as suspected undocumented immigrants to ICE.

81. After consulting with the Durrett Defendants and with full awareness that he was unlawfully intervening in a labor dispute, Defendant Graves instructed Defendant Freeman to call ICE to report Plaintiffs as suspected undocumented immigrants. Defendant Freeman did so on or about October 22 or October 23, 2007.

82. As a direct result of the actions of Defendants Graves, Freeman, Durrett Cheese, and Durrett, Plaintiffs were confined against their will in the Coffee County Jail an additional 24 to 48 hours after the Coffee County district attorney had dropped all charges against them.

83. On or about Wednesday, October 24, 2007, ICE agents arrived at the Coffee County jail and handcuffed Plaintiffs at the behest of the Coffee County Defendants. ICE agents then transported Plaintiffs to the Elizabeth Detention Center in Nashville, Tennessee, where Plaintiffs were interrogated for several hours.

84. Plaintiffs were detained at the Elizabeth Detention Center for approximately 9 hours until Plaintiffs' attorney secured their release.

85. During this their detention, Plaintiffs, many of whom are mothers of young children, were terrified that they might be summarily deported without an opportunity to say goodbye to their children and arrange for their care in their parents' absence.

86. The Coffee County Defendants conspired with the Durrett Defendants to deny Plaintiffs their civil rights because of their national origin and race by having them unlawfully arrested and detained.

87. Plaintiffs' race and/or national origin was a substantial motivating factor in the Durrett Defendants' decisions to threaten, fire, and secure the arrest and ICE apprehension of Plaintiffs.

88. At all relevant times, the Coffee County Defendants were aware they were intervening in a dispute over unpaid wages.

89. At all relevant times, the Coffee County Defendants acted at the behest and according to the retaliatory preferences and requests of the Durrett Defendants.

90. Upon information and belief, the Coffee County Defendants had no basis for reasonably suspecting that Plaintiffs were undocumented immigrants other than perceptions regarding Plaintiffs' apparent race and/or national origin and the plainly retaliatory accounts provided by the Durrett Defendants and their agents.

91. As a direct result of Defendants' collaboration and participation in unlawful discrimination and retaliation, the Coffee County Defendants refused to properly investigate Plaintiffs' complaints of wage theft and unlawfully interfered with Plaintiffs' collective assertion of their rights to minimum wages and nondiscrimination.

92. As a result of Defendants' discriminatory and retaliatory measures, Plaintiffs have been deprived of their liberty, wrongfully charged with a crime, subjected to the extreme stress and expense of civil deportation proceedings, and faced the possibility that they may be removed from the United States. As a result of Defendants' conduct, Plaintiffs have suffered substantial damages, including emotional distress and mental anguish.

CLAIMS FOR RELIEF

COUNT I
RETALIATION IN VIOLATION OF THE FAIR LABOR STANDARDS ACT
(ALL DEFENDANTS)

93. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

94. Plaintiffs assert this claim pursuant to FLSA's anti-retaliation provisions, 29 U.S.C. § 215(a)(3), against all Defendants.

95. On several occasions after August 8, 2008 and specifically on October 22, 2007, Plaintiffs collectively requested that Defendants Durrett Cheese and Durrett pay them unpaid minimum wages.

96. Plaintiffs' demands for wages and attempts to collectively negotiate an extrajudicial resolution to their wage complaints are protected activities under the clear statutory language of federal employment laws, including the FLSA.

97. As set forth above, the Durrett Defendants retaliated against Plaintiffs by threatening and firing Plaintiffs, arranging for the arrest and detention of Plaintiffs on false trespassing charges, and securing ICE's subsequent arrest and detention of Plaintiffs.

98. As set forth above, the Coffee County Defendants knowingly participated in, aided, and abetted the Durrett Defendants' unlawful retaliatory measures by intentionally intervening in

a dispute over unpaid wages against Plaintiffs and arresting, detaining, and arranging for the ICE arrest and detention of Plaintiffs.

99. Defendants' actions as described above constitute unlawful retaliation prohibited by the plain language of the FLSA. 29 U.S.C. § 215 (a)(3).

100. Plaintiffs' rights under the FLSA to demand their unpaid wages without retaliation by their employer or by third parties were clearly established at the time Defendants retaliated against Plaintiffs.

101. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

102. As a direct result of Defendants' retaliatory measures, Plaintiffs have been threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

103. Plaintiffs are entitled to recover damages which arose as a result of Defendants' retaliatory actions, and any other legal or equitable relief that may be appropriate to effectuate the purposes of the FLSA's anti-retaliation provisions. 29 U.S.C. § 216(b).

COUNT II
VIOLATIONS OF 42 U.S.C. § 1981
(ALL DEFENDANTS)

104. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

105. Plaintiffs assert this claim pursuant to 42 U.S.C. § 1981 against all Defendants.

106. Defendants' actions violated Plaintiffs' rights to receive full and equal benefit of all laws guaranteed by 42 U.S.C. § 1981, including Plaintiffs' rights to enjoy and benefit from non-discriminatory employment relationships with the Durrett Defendants, to protest the Durrett

Defendants' discriminatory pay practices without being subjected to adverse actions by Defendants, and to employ all lawful and non-violent means to seek enforcement of their employment contracts with the Durrett Defendants.

107. The Durrett Defendants violated Plaintiffs' rights by maintaining an objectively hostile and abusive work environment on account of Plaintiffs' race and/or national origin . Plaintiffs reasonably perceived their work environment to be hostile, abusive, and discriminatory on the basis of race and/or national origin.

108. The Durrett Defendants also violated Plaintiffs' rights by retaliating against them for having asserted their rights to nondiscriminatory wage payment. The retaliatory acts included threatening and firing Plaintiffs, having Plaintiffs arrested, detained and reported to ICE.

109. The Coffee County Defendants violated Plaintiffs' rights by participating in the Durrett Defendants' unlawful retaliation against Plaintiffs.

110. The Coffee County Defendants further violated Plaintiffs' rights by unlawfully interfering with Plaintiffs' rights to exercise lawful means -- including, but not limited to, conduct of a non-violent work stoppage in the Durrett Defendants' break room -- to enforce the terms of their employment contracts with their employers to the same extent and according to the same protection as enjoyed by white employees.

111. Defendants' hostile, abusive, and discriminatory treatment of Plaintiffs was unwelcome.

112. Defendants' conduct deprived Plaintiffs the same contract-based rights as enjoyed by white persons and subjected them to unlawful discrimination and retaliation in violation of 42 U.S.C. § 1981.

113. Plaintiffs' rights under 42 U.S.C. § 1981 to make and enforce contracts to the same extent and according to the same privileges as white persons were clearly established at the time Defendants retaliated against Plaintiffs.

114. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

115. As a direct result of Defendants' actions, Plaintiffs have been subjected to discriminatory terms and conditions of employment, threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

116. Plaintiffs seek all appropriate relief, including declaratory and injunctive relief, attorneys' fees, costs of this action, and damages, including compensatory and punitive damages, in an amount to be determined at trial.

117. Plaintiffs' claims arising under 42 U.S.C. § 1981 against the Coffee County Defendants are asserted via 42 U.S.C. § 1983.

COUNT III
42 U.S.C. § 1983 CLAIMS ARISING FROM CONSPIRACY TO VIOLATE AND
VIOLATIONS OF PLAINTIFFS' FOURTH AMENDMENT AND FEDERAL
STATUTORY RIGHTS UNDER COLOR OF STATE LAW
(ALL DEFENDANTS)

118. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

119. Plaintiffs assert this claim pursuant to 42 U.S.C. § 1983 against all Defendants according to the specific parameters detailed below.

120. As final policy maker with respect to the Coffee County Sheriff Department's law enforcement activities, Defendant Graves' decisions to arrest, detain, and report Plaintiffs to ICE constituted the official policy, practices, and decisions of Coffee County.

121. The Coffee County Defendants' actions and actions taken by the Durrett Defendants in conspiracy with and with the assistance, participation, and cooperation of the Coffee County Defendants occurred under color of state law for the purposes of 42 U.S.C. § 1983.

All Defendants' Conspiracy to Violate and Violations of Plaintiffs' Fourth Amendment Rights

122. As set forth in the preceding paragraphs, all Defendants conspired, and the Coffee County Defendants acted, under color of the legal authority of the Coffee County Sheriff's Departments to deprive Plaintiffs of their Fourth Amendment right to be free of unreasonable searches and seizures by, inter alia, by arranging for the Coffee County Defendants to unreasonably arrest, detain, and report Plaintiffs to immigration authorities in contravention of Plaintiffs' rights to collectively and peacefully demand nondiscriminatory payment of minimum wages from their employer, including, but not limited to, engaging in a non-violent work stoppage in the Durrett Defendants' break room.

123. Plaintiffs' rights to be free of unreasonable, retaliatory and unlawful arrests and detentions described above were clearly established at all relevant times.

124. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

125. As a direct result of Defendants' conspiracy and actions, Plaintiffs have been threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

126. Plaintiffs seek all appropriate relief, including declaratory and injunctive relief, attorneys' fees, costs of this action, and damages, including compensatory and punitive damages, in an amount to be determined at trial.

All Defendants' Violations of Plaintiffs' Rights under 42 U.S.C. § 1981

127. As set forth in the preceding paragraphs and in detail in Count II, all Defendants conspired, and the Coffee County Defendants acted, under color of the legal authority of the Coffee County Sheriff's Departments to deprive Plaintiffs of their rights under 42 U.S.C. § 1981 to make and enforce employment contracts to the same extent as white persons.

128. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

129. As a direct result of Defendants' conspiracy and actions, Plaintiffs have been threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

130. Plaintiffs seek all appropriate relief, including declaratory and injunctive relief, attorneys' fees, costs of this action, and damages, including compensatory and punitive damages, in an amount to be determined at trial.

The Coffee County Defendants' Violations of Plaintiffs' Rights Under the National Labor Relations Act

131. As set forth in the preceding paragraphs, the Coffee County Defendants acted, under color of the legal authority of the Coffee County Sheriff's Department, to deprive Plaintiffs of their rights under the National Labor Relations Act (NLRA), 29 U.S.C. § 141 et seq., to

collectively bargain with their employer and to collectively protest the terms and conditions of their employment.

132. Plaintiffs' rights to collectively bargain with their employer and protest the terms and conditions of their employment, including, but not limited to, Plaintiffs' right to engage in a non-violent work stoppage in the Durrett Defendants' break room, were clearly established at all relevant times.

133. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

134. As a direct result of Defendants' actions, Plaintiffs have been threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

135. Plaintiffs seek all appropriate relief, including declaratory and injunctive relief, attorneys' fees, costs of this action, and damages, including compensatory and punitive damages, in an amount to be determined at trial.

*The Coffee County Defendants' Violations of Plaintiffs' Rights Under the
Fair Labor Standards Act*

136. As set forth in the preceding paragraphs, the Coffee County Defendants acted, under color of the legal authority of the Coffee County Sheriff's Department, to deprive Plaintiffs of their rights under the FLSA, 29 U.S.C. § 215(a)(3), to demand unpaid minimum wages without suffering retaliation.

137. Plaintiffs' rights to collectively demand their unpaid minimum wages without being subject to any retaliation were clearly established at all relevant times.

138. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

139. As a direct result of the Coffee County Defendants' actions, Plaintiffs have been threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

140. Plaintiffs seek all appropriate relief, including declaratory and injunctive relief, attorneys' fees, costs of this action, and damages, including compensatory and punitive damages, in an amount to be determined at trial.

COUNT IV
VIOLATIONS OF 42 U.S.C. § 1985(3)
(ALL DEFENDANTS)

141. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

142. As set forth in the preceding paragraphs and with specificity in Count III, all Defendants conspired, agreed, planned, coordinated, and acted for the purpose of depriving Plaintiffs of equal protection, inter alia, of their rights under the Fourth Amendment to the United States Constitution to be free of unreasonable searches and seizures, and their rights under the NLRA and FLSA to collectively seek payment of unpaid minimum wages.

143. In conspiring and taking these actions, Defendants were motivated by animus against Plaintiffs based on Plaintiffs' race and/or national origin when they conspired to deprive Plaintiffs of their rights.

144. Plaintiffs' rights to equal protection of the laws prohibiting unreasonable arrests and detentions and prohibiting retaliation and interference with their rights under the NLRA and FLSA were clearly established at all relevant times.

145. Defendants knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs and other class members of their rights.

146. As a direct result of Defendants' actions, Plaintiffs have been threatened, fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages.

147. Plaintiffs seek all appropriate relief, including declaratory and injunctive relief, attorneys' fees, costs of this action, and damages, including compensatory and punitive damages, in an amount to be determined at trial.

COUNT V
RETALIATION IN VIOLATION OF THE TENNESSEE HUMAN RIGHTS ACT
(DEFENDANT DURRETT CHEESE)

148. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

149. Defendants Durrett Cheese, acting through its various officers, administrators, and agents, engaged in unlawful practices, acts, and policies in violation of the Tennessee Human Rights Act, Tenn Code Ann. §4-21-101 *et seq.* by intentionally and willfully discriminating against the Plaintiffs in their employment on account of Plaintiffs' national origin and/or race from August 8, 2007 up until at least October 22, 2007.

150. Plaintiffs were harassed by the Durrett Defendants' supervisor Shanna Ramirez because of their national origin and/or race. Ms. Ramirez subjected Plaintiffs to a hostile,

intimidating and abusive work environment. Ms. Ramirez's conduct was unwelcome, was motivated by the Plaintiffs' national origin and/or race, and resulted in tangible job detriment. The harassment affected the terms and conditions of Plaintiffs employment. Defendant Durrett Cheese knew or should have known of the harassment. Defendant did not take immediate or appropriate corrective action to remedy the harassment against Plaintiffs.

151. Defendant Durrett Cheese also discriminatorily withheld Plaintiffs earned wages between August 8, 2007 and October 22, 2007 because of Plaintiffs national origin and/or race.

152. As set forth above, Defendant Durrett Cheese and its agents retaliated against Plaintiffs by threatening Plaintiffs, firing Plaintiffs, arranging for the arrest and detention of Plaintiffs on false trespassing charges, and securing ICE's subsequent arrest and detention of Plaintiffs.

153. Plaintiffs' collective complaints regarding discriminatory non-payment of wages were protected by the clear language of the THRA. Tenn. Code Ann. 4-21-301(1).

154. As a direct result of Defendant's retaliatory measures, Plaintiffs have been fired, arrested, detained, denied of their liberty and property, subjected to civil deportation proceedings, and have suffered substantial damages, including emotional distress and anguish.

COUNT VI
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(THE DURRETT DEFENDANTS)

155. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

156. The conduct of the Durrett Defendants described above resulted in the intentional infliction of emotional distress against Plaintiffs.

157. The Durrett Defendants' discriminatory and retaliatory conduct against Plaintiffs resulted in Plaintiffs' arrest and detention. The Durrett Defendants' actions were intentional.

158. The Durrett Defendants' conduct was so outrageous so as not to be tolerated in a civilized society.

159. The Durrett Defendants' conduct has resulted in serious mental injury and suffering to Plaintiffs.

COUNT VII
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(ALL DEFENDANTS)

160. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

161. The conduct of Defendants as detailed above resulted in the negligent infliction of emotional distress.

162. The Durrett Defendants owed a duty to Plaintiffs to protect them from employment discrimination in the workplace. The Durrett Defendants breached their duty to Plaintiffs by failing to adequately train and supervise their managers. The Durrett Defendants breached their duty by permitting an abusive workplace environment and by permitting harassment and threatening behavior against Plaintiffs. Further, the Durrett Defendants breached their duty by permitting retaliation against Plaintiffs.

163. The Coffee County Defendants owed a duty to protect Plaintiffs from harm and to investigate crimes committed against them. The Coffee County Defendants breached their duty to Plaintiffs by failing to investigate Plaintiffs' complaints that the Durrett Defendants intentionally failed to pay them their earned wages which resulted in theft of services pursuant to Tenn. Code Ann. 39-14-104. Further, the Coffee County Defendants breached their duty to

Plaintiffs by conspiring with and/or permitting the Durrett Defendants to retaliate against the Plaintiffs for asserting their rights by misusing the criminal laws of Tennessee.

164. The Durrett Defendants' and the Coffee County Defendants' actions and/or inactions injured Plaintiffs

165. The Durrett Defendants' and the Coffee County Defendants' conduct has caused Plaintiffs serious mental injury and suffering.

COUNT VIII
MALICIOUS PROSECUTION
(THE DURRETT DEFENDANTS)

166. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

167. Plaintiffs had a right to be on Defendant Durrett Cheese's premises to perform their jobs and to demand the unpaid wages.

168. As set forth in detail above, the Durrett Defendants, through their agents Shanna Ramirez and Ron Girts, acted intentionally and maliciously by falsely charging Plaintiffs with trespassing to punish Plaintiffs' assertion of their rights.

169. The Durrett Defendants' conduct has resulted in significant harm to Plaintiffs, including serious mental injury and suffering.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that there be judgment rendered herein in favor of Plaintiffs and against Defendants as follows.

- a. Reasonable damages to compensate Plaintiffs for the emotional distress suffered as a result of Defendants' retaliatory activities;

- b. Appropriate injunctive and declaratory relief;
- c. Punitive damages in an amount to be determined at trial;
- d. Court costs, including discretionary costs;
- e. An award of reasonable attorneys' fees; and
- g. Such other relief as the Court may deem appropriate.

Respectfully submitted,

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