

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

JUN 15 2020

JAMES W. McCORMACK, CLERK
By: [Signature] DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

**ISIAH WHITE, Individually and on
Behalf of All Others Similarly Situated**

PLAINTIFF

vs.

No. 4:20-cv-742-KGB

**SKIPPY FOODS, LLC, HORMEL FOODS
CORPORATION, HORMEL FOODS CORPORATE
SERVICES, LLC, and HORMEL FOODS SALES, LLC**

DEFENDANTS

ORIGINAL COMPLAINT—COLLECTIVE ACTION

COMES NOW Plaintiff Isiah White (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys Tess Bradford and Josh Sanford of the Sanford Law Firm, PLLC, and for his Original Complaint—Collective Action against Skippy Foods, LLC, Hormel Foods Corporation, Hormel Foods Corporate Services, LLC, and Hormel Foods Sales, LLC (collectively “Defendant” or “Defendants”), he does hereby state and allege as follows:

I. JURISDICTION AND VENUE

1. Plaintiff, individually and on behalf of all others similarly situated, brings this action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”), and the Arkansas Minimum Wage Act, Ark. Code Ann. § 11-4-201, *et seq.* (“AMWA”), for declaratory judgment, monetary damages, liquidated damages, prejudgment interest, and costs, including reasonable attorneys’ fees as a result of Defendant’s failure to pay Plaintiff and all others similarly situated a

This case assigned to District Judge Baker
and to Magistrate Judge Kearney

proper overtime compensation for all hours that Plaintiff and all others similarly situated worked.

2. The United States District Court for the Eastern District of Arkansas has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this suit raises federal questions under the FLSA.

3. Plaintiff's claims under the AMWA form part of the same case or controversy and arise out of the same facts as the FLSA claims alleged in this Complaint. Therefore, this Court has supplemental jurisdiction over Plaintiff's AMWA claims pursuant to 28 U.S.C. § 1367(a).

4. Defendant conducts business within the State of Arkansas, operating a peanut butter factory in Little Rock.

5. Venue lies properly within this Court under 28 U.S.C. § 1391(b)(1) and (c)(2), because the State of Arkansas has personal jurisdiction over Defendant, and Defendant therefore "resides" in Arkansas.

6. Plaintiff was employed by Defendant at its factory located in the Central Division of the Eastern District of Arkansas.

7. The acts alleged in this Complaint had their principal effect within the Central Division of the Eastern District of Arkansas, and venue is proper in this Court pursuant to 28 U.S.C. § 1391.

II. THE PARTIES

8. Plaintiff is an individual resident and domiciliary of Pulaski County.

9. Separate Defendant Skippy Foods, LLC ("Skippy"), is a foreign limited liability company.

10. Skippy's registered agent for service is C T Corporation System, 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201.

11. Separate Defendant Hormel Foods Corporation ("HF Corporation"), is a foreign, for-profit corporation.

12. HF Corporation's registered agent for service is C T Corporation System, 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201.

13. Separate Defendant Hormel Foods Corporate Services, LLC ("HFCS"), is a foreign limited liability company.

14. HFCS's registered agent for service is C T Corporation System, 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201.

15. Separate Defendant Hormel Foods Sales, LLC ("HF Sales"), is a foreign limited liability company.

16. HF Sales's registered agent for service is C T Corporation System, 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201

III. FACTUAL ALLEGATIONS

17. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as though fully incorporated in this section.

18. Defendants have unified operational control and management, as well as control over employees, including shared power to supervise, hire and fire, establish wages and wage policies and set schedules for their employees through unified management.

19. Upon information and belief, revenue generated by Skippy, HF Corp., HFCS and HF Sales was merged and managed in a unified manner.

20. As a result of this unified operation, control and management, through shared employees and ownership with the authority to establish wages and wage policy, Defendants operated as a single enterprise.

21. During each of the three years preceding the filing of this Complaint, Defendant employed at least two individuals who were engaged in interstate commerce or in the production of goods for interstate commerce, or had employees handling, selling, or otherwise working on goods or materials that had been moved in or produced for commerce by any person, such as medical supplies and pharmaceutical drugs.

22. Defendant's annual gross volume of sales made or business done was not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated) during each of the three calendar years preceding the filing of this complaint.

23. At all times material herein, Defendant was an "employer" of Plaintiff and similarly situated employees within the meaning of the FLSA and the AMWA.

24. Defendant owns and operates a peanut butter factory in Little Rock.

25. Defendant employed Plaintiff as an hourly-paid Label Operator from June of 2019 to May of 2020.

26. At all times material herein, Defendant classified Plaintiff as non-exempt from the overtime requirements of the FLSA and paid him an hourly wage.

27. At all times material herein, Plaintiff has been entitled to the rights, protections and benefits provided under the FLSA.

28. In addition to his hourly rate, Plaintiff periodically received bonuses.

29. Defendant also employed other hourly employees who received bonuses (hereinafter, "bonusing employees").

30. Plaintiff and other bonusing employees received bonuses if the factory met certain objective requirements such as meeting safety goals.

31. These nondiscretionary bonuses were a form of compensation to Plaintiff and similarly situated employees.

32. At all relevant times herein, Defendant directly hired bonusing employees to work at its factories, paid them wages and benefits, controlled their work schedules, duties, protocols, applications, assignments and employment conditions, and kept at least some records regarding their employment.

33. Plaintiff regularly worked over forty (40) hours per week while employed by Defendant.

34. Other bonusing employees worked over forty (40) hours in at least some weeks while employed by Defendant.

35. During weeks in which Plaintiff and other bonusing employees worked over forty (40) hours, Defendant paid an improper overtime rate because Defendant determined the regular rate of pay solely based on employees' hourly rate, without including the value of the nondiscretionary bonuses that Defendant provided to Plaintiff and other bonusing employees.

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