

Court Holds that Restaurant Owner may be Personally Liable for FLSA Violations

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A new federal case out of Illinois demonstrates the extreme importance of complying with wage and hour laws, especially where the law provides for individual liability against those who control the terms and conditions of employment.

In the case, *Reynoso v. Motel LLC*, No. 1:13-cv-05004 (10/21/14), Julio Reynoso, Luis Gonzalez, and Manuel Gonzalez filed suit against their employer, Motel LLC, and its managing member/owner, Herbert Greenwald, claiming that the restaurant violated the Fair Labor Standards Act (FLSA) and the Illinois Minimum Wage Law by failing to pay them overtime. The employees filed a motion for summary judgment, which the employer and owner opposed, arguing that while the *employer itself* may be liable for the alleged wage violations, the owner *individually* was not. The employer and owner further argued that liquidated damages should not be assessed because they acted reasonably and in good faith, and because the violations were not willful. Specifically, the defendants argued that it was restaurant's financial manager -- not the owner -- who was the person responsible for the decision not to pay the workers their overtime wages. The employees disputed this.

In reaching its decision, the court reasoned that "joint liability," in which more than one employer is liable for the same underpayment of wages, is contemplated by the FLSA. Here, the court concluded, the **owner had final authority over the terms and conditions of workers' employment**, including the amount and form of their wages. The facts demonstrated that the owner regularly worked at the restaurant, oversaw all day-to-day operations, and hired and supervised the restaurant's financial manager who was in charge of payroll. These "economic realities," the court found, established that the owner was in fact an "employer" under the FLSA and that he therefore could be held personally liable to the employees on their wage claims. The court accordingly granted the employees' motion as to the owner's liability and as to liquidated damages, but denied the motion with respect to the employer's/owner's alleged willfulness.

In this case, the court found that the owner could conceivably be an "employer" under the definitions of the FLSA based upon his routine involvement with the business and its operations. Similar state statutes may provide for the same type of liability. Employers should review and, if necessary, revisit their wage and hour policies to ensure compliance with the pertinent federal and state laws.

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