

Gallup couple finally recoups unpaid wages plus damages

Written by gallupsun
Tuesday, 23 April 2024 07:38

Two Gallup residents who sought for years to receive unpaid wages owed by a local business owner finally received their paychecks during the week of April 8 under the terms of a settlement agreement facilitated by the New Mexico Department of Workforce Solutions and Somos Un Pueblo Unido, a non-profit organization that promotes worker and social justice.

“Persistence is the key word. We didn’t give up. We just stuck with it,” Jose “Pancho” Olivas said.

Jose, along with his wife, Sandra Olivas, worked for more than six months for Morgan Newsom, a Gallup business owner, at his Farmington restaurant in 2014 and 2015 and were not paid for all their hours, including overtime hours.

The Olivases, members of Somos in McKinley County, originally attempted to file a wage complaint at DWS in 2015 but were turned away because at the time the Department refused to handle wage claims over \$10,000.

“I could not believe DWS would not accept my complaint because my employer owed us too much money. It just didn’t seem right,” Jose said.

Jose subsequently became the lead plaintiff in a statewide class action lawsuit against DWS filed in 2017 for not adequately enforcing wage and hour laws. The 2017 lawsuit resulted in a settlement agreement between workers' rights organizations, including Somos, the Olivases, and the Department to ensure the state government would carry out its duty to enforce New Mexico's strong anti-wage theft laws and hold employers accountable when they violate these laws.

DWS accepted the Olivases's wage complaint in 2017, following the filing of the lawsuit. The Department found in favor of the Olivases after an investigation and when their previous employer refused to pay, the Department sued the employer in state district court in October 2020.

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In August 2022, a state district court judge issued a written ruling in favor of the Olivases's and ordered Newsom pay their unpaid wages, plus interest and treble damages in the amount of \$116,000. The employer filed an appeal, but in January the state Court of Appeals affirmed the lower court's decision.

"We wanted progress in our community. The feeling was the employer will just get away with it, but we knew if we kept persisting we would eventually get paid," Sandra said.

Gabriela Ibañez Guzmán, staff attorney with Somos' Worker Center and co-counsel in the class action lawsuit against DWS, praised the Olivases.

"The resolution in this case is just and was a long time coming," she said. "The Olivases showed great courage in choosing to be named lead plaintiffs in the original class action lawsuit against DWS under the Susana Martinez administration. While waiting patiently for their claim to go through the lengthy legal process, they helped ensure other immigrant and non-immigrant workers would have the institutional support they need from DWS to swiftly recoup stolen wages."

Newsom hired the Olivases to remodel and run 505 Burgers, his Farmington restaurant, in 2014. Jose was sometimes paid for his hours worked, Newsom frequently failed or refused to pay him for all of his wages and Newsom never paid Sandra for her hours worked. During their employment, they both worked between 70 to 100 hours per week, seven days a week.

The class action case, *Olivas v. Nair*, was filed in January 2017 by victims of wage theft, including the Olivases, and workers' rights organizations Somos, El CENTRO de Igualdad y Derechos, New Mexico Comunidades en Acción y de Fé, and Organizers in the Land of Enchantment.

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