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Gallup Couple, Plaintiffs in Years-long Class Action Wage Enforcement Lawsuit, Finally Recoup Unpaid Wages Plus Damages

Gallup, NM--Two Gallup residents who sought for years to receive unpaid wages owed by a local business owner finally received their paychecks last week under the terms of a settlement agreement facilitated by the New Mexico Department of Workforce Solutions (DWS) and Somos Un Pueblo Unido (Somos).

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

Pancho Olivas 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 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.

In August 2022, a state district court judge issued a written ruling in favor of the Olivases’ 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 2024, 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,” said Sandra Olivas.

“The resolution in this case is just and was a long time coming,” said Gabriela Ibañez Guzmán, staff attorney with Somos' Worker Center and co-counsel in the class action lawsuit against DWS. “The Olivas 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 Olivas' to remodel and run 505 Burgers, his Farmington restaurant, in 2014. Mr. Olivas was sometimes paid for his hours worked, but Mr. Newsom frequently failed or refused to pay Mr. Olivas' for all of his wages; Mr. Newsom never paid Mrs. Olivas 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 (CAFÉ), and Organizers in the Land of Enchantment (OLÉ).

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