

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
SOUTHERN DIVISION AT LONDON**

MARTIN J. WALSH,	)
Secretary of Labor, United States	)
Department of Labor,	)
	)
Plaintiff	)
	)
v.	)
	)
IKES ARTISAN PIZZA, L.L.C.	)
and ISAAC MARTIN AUSMUS,	)
	)
Defendants	)

**COMPLAINT**  
(Injunctive Relief Sought)

This cause of action, which arises under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.*, hereinafter the Act or the FLSA, is brought by the Secretary of Labor to restrain Defendants, Ikes Artisan Pizza, L.L.C. and Isaac Martin Ausmus, from retaliating against employees in violation of Section 15(a)(3) of the Act, 29 U.S.C. § 215(a)(3). As described more fully below, an employee of the Defendants’ restaurant, Amber Roberts, was terminated for exercising her statutorily protected right of speaking to the Kentucky Labor Cabinet about her wages. The Secretary also seeks legal relief related to the Defendants’ unlawful actions.

**JURISDICTION AND VENUE**

1. This court has jurisdiction over this action pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, and 28 U.S.C. §§ 1331 and 1345.
2. Venue is proper in the U.S. District Court for the Eastern District of Kentucky, Southern Division at London, because a substantial part of the events giving rise to the claim occurred in this judicial district, as detailed herein.

**PARTIES**

3. Plaintiff Martin J. Walsh, Secretary of Labor, U.S. Department of Labor, is authorized to bring actions to restrain violations of the anti-retaliation provision and other provisions of the FLSA. *See* 29 U.S.C. §§ 211(a), 216(b), and 217.

4. Ikes Artisan Pizza, L.L.C. is a limited liability company organized under the laws of the Commonwealth of Kentucky with a principal office at 1910 Cumberland Ave., Middlesboro, Kentucky 40965, and place of business located at 2020 Cumberland Ave., Middlesboro, Kentucky 40965. Ikes Artisan Pizza, L.L.C. operates a restaurant called “Ike’s Artisan Pizza” in Bell County, Kentucky.

5. Defendant Isaac Martin Ausmus is the managing member of Defendant Ikes Artisan Pizza, L.L.C.

**FACTS GIVING RISE TO THE ACTION**

6. Amber Roberts was employed by Defendant Ikes Artisan Pizza, L.L.C. as a server at the restaurant in Bell County, Kentucky. At the time of her termination, she had been employed by Defendant Ikes Artisan Pizza, L.L.C. for approximately six months.

7. In July 2022, Ms. Roberts contacted the Kentucky Labor Cabinet regarding concerns about her wages.

8. On or about July 18, 2022, Ms. Roberts worked her shift at Ike’s Artisan Pizza. During that shift, she mentioned to shift supervisor, Mr. Jagger McCudden, that she recently contacted the Kentucky Labor Cabinet regarding her paycheck.

9. At the end of her shift, Ms. Roberts noticed that her upcoming shifts were not listed on the restaurant’s scheduling program. Concerned about this, she inquired with Defendant Isaac Martin Ausmus why she had been taken off the schedule.

10. Mr. Ausmus told Ms. Roberts that he had heard that she had placed a call to the Kentucky Labor Cabinet. Mr. Ausmus expressed dissatisfaction with the fact that Ms. Roberts called the Kentucky Labor Cabinet, and he told her that she would not be able to work for him or any of his other companies. Mr. Ausmus discharged Ms. Roberts from her employment with Ikes Artisan Pizza, L.L.C.

### **FIRST CAUSE OF ACTION**

#### **(Violation of the Anti-Retaliation Provision of the FLSA)**

11. Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3), prohibits retaliation against employees because they assert their rights under the FLSA. The provision prohibits, among other things, “any person” from “discharg[ing] or in any other manner discriminat[ing] against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding ...” 29 U.S.C. § 215(a)(3). Section 17 of the FLSA, 29 U.S.C. § 217, grants courts jurisdiction, for cause shown, to restrain violations of Section 15(a)(3) of the FLSA.

12. Ms. Roberts’s inquiry to the Kentucky Labor Cabinet was a statutorily protected activity under Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3).

13. Defendant Isaac Martin Ausmus discharged Ms. Roberts in retaliation for her exercise of a statutorily protected right in violation of Section 15(a)(3). Specifically, Mr. Ausmus terminated Ms. Roberts because she contacted the Kentucky Labor Cabinet regarding her pay.

### **PRAYER FOR RELIEF**

WHEREFORE, cause having been shown, the Secretary prays that this Court enter judgment against Defendants and provide the following relief:

a. An order issued pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, permanently enjoining and restraining Defendants, their officers, agents, servants, and employees, and those persons in active concert or participation with Defendants, from violating the provisions of Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3), by taking any adverse action or threatening to take any adverse action against any current or former employee because that employee engaged in activity protected by the FLSA;

b. An order awarding damages for the lost wages that Amber Roberts would have earned had she continued to work for Defendant Ikes Artisan Pizza, L.L.C.;

c. An award of liquidated damages equal to Amber Roberts's lost wages;

d. An award of damages for mental and emotional distress caused to Amber Roberts as a result of her unlawful discharge;

e. An award of damages equal to any expenses Amber Roberts incurred in searching for a new job or relocating to find a new job;

f. An award of punitive damages for the unlawful discharge of Amber Roberts; and

g . An order awarding any other legal or equitable relief as may be appropriate to effectuate the purposes of Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3).

Respectfully submitted,

SEEMA NANDA  
Solicitor of Labor

TREMELLE I. HOWARD  
Regional Solicitor

SCHEAN G. BELTON  
Associate Regional Solicitor

MATT S. SHEPHERD  
Counsel for Wage and Hour

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[Nash.FedCourt@dol.gov](mailto:Nash.FedCourt@dol.gov)

/s/ Thomas J. Motzny  
THOMAS J. MOTZNY  
Attorney

U.S. Department of Labor  
Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Martin J. Walsh, Secretary of Labor

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Thomas J. Motzny, U.S. Department of Labor, Office of the Solicitor, 618 Church Street, Suite 230, Nashville, TN 37219: 615-781-5331

DEFENDANTS

Ikes Artisan Pizza, L.L.C. and Isaac Martin Ausmus

County of Residence of First Listed Defendant Bell Co. (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and descriptions.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Fair Labor Standards Act, 29 U.S.C. § 201. Brief description of cause: Retaliation under 29 U.S.C. § 215(a)(3)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

11/21/2022 /s/ Thomas J. Motzny

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Kentucky

MARTIN J. WALSH, SECRETARY OF LABOR,

Plaintiff(s)

v.

IKES ARTISAN PIZZA, L.L.C. and ISAAC MARTIN AUSMUS,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) IKES ARTISAN PIZZA, L.L.C. (c/o Isaac Martin Ausmus, registered agent) 2020 Cumberland Ave. Middlesboro, Kentucky 40965

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Thomas J. Motzny, U.S. Department of Labor, Office of the Solicitor, 618 Church Street, Suite 230, Nashville, TN 37219; motzny.thomas.j@dol.gov

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Kentucky

MARTIN J. WALSH, SECRETARY OF LABOR,

Plaintiff(s)

v.

IKES ARTISAN PIZZA, L.L.C. and ISAAC MARTIN AUSMUS,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ISAAC MARTIN AUSMUS
2020 Cumberland Ave.
Middlesboro, Kentucky 40965

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Thomas J. Motzny, U.S. Department of Labor, Office of the Solicitor, 618 Church Street, Suite 230, Nashville, TN 37219; motzny.thomas.j@dol.gov

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\_\_\_\_\_, a person of suitable age and discretion who resides there,  
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I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: