

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane**

Civil Action No. 11-cv-02755-JLK-KMT

JONATHAN REYES,

Plaintiff,

v.

SNOWCAP CREAMERY, INC.,
EMILY ARNOLD, and
ROBERT ARNOLD,

Defendants.

AMENDED JUDGMENT

Kane, J.

THIS MATTER was tried to the Court from December 18 to 20, 2013, the Honorable John L. Kane presiding. Based upon the Court's findings and conclusions announced in open court at the conclusion of the trial, the Court enters judgment as follows.

On Plaintiff's First Claim for Relief under the Fair Labor Standards Act, the Court finds that Plaintiff was an exempt executive employee under 29 U.S.C. §213(a)(1) during the period from January 24, 2010 through the end of his employment. The Court further finds that Plaintiff was a non-exempt employee during the period from August 25, 2009 through January 23, 2010 and is entitled of overtime pay of \$1475.19 for that period of time. Plaintiff also is entitled to liquidated damages of \$1475.19.

On Plaintiff's Second Claim for Relief under the Colorado Minimum Wage Order,

the Court finds that Plaintiff was an exempt executive/supervisor during the period from January 24, 2010 through the end of his employment. The Court further finds that Plaintiff was non-exempt during the period from August 25, 2009 through January 23, 2010. Because overtime and liquidated damages are being awarded to Plaintiff on his First Claim for Relief, however, he is not also entitled to recover on his Second Claim for Relief.

On Plaintiff's Third Claim for Relief under the Colorado Wage Act, the Court finds that Plaintiff is entitled to \$392.86 from Defendant Snowcap Creamery, Inc., representing a pro-rated portion of his salary for his last five days of employment from September 13-17, 2011. At the conclusion of trial, the Court ordered that this amount be promptly paid to Plaintiff and Defendants complied with that order. IT IS ORDERED that Judgment enter in favor of Plaintiff and against Defendants for \$2,950.38 on the First Claim. The Judgment for \$2,950.38 has been satisfied.

IT IS FURTHER ORDERED that Judgment enter in favor of Plaintiff and against Defendant Snowcap Creamery, Inc. for \$392.86 on the Third Claim. The Judgment for \$392.86 has been satisfied.

IT IS FURTHER ORDERED that Plaintiff is awarded is awarded \$36,111.53 in attorney fees under the FLSA and \$1,901.09 in costs under the FLSA and Rule 54(d)(1), and that Judgment enter in favor of Plaintiff and against Defendants for \$38,012.62.

IT IS FURTHER ORDERED that Judgment enter in favor of Plaintiff and against Defendant Snowcap Creamery, Inc. on its counterclaim for breach of the Employment Agreement.

IT IS FURTHER ORDERED that post-judgment interest on the Judgment entered in favor of Plaintiff shall accrue at the legal rate of .13% per annum.

Dated at Denver, Colorado, this 4th day of June, 2014.

BY THE COURT

s/ John L Kane

John L. Kane

United States District Judge