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U.S. DISTRICT COURT
DISTRICT OF WYOMING
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

HILDA SOLIS, SECRETARY OF LABOR,)
UNITED STATES DEPARTMENT OF LABOR,)
)
Plaintiff,)
)
v.)
)
MOUNT RUSHMORE BROADCASTING, INC.,)
and JAN CHARLES GRAY, individually,)
)
Defendants.)

No: 12-CV-261-J

COMPLAINT

Plaintiff, Hilda Solis, Secretary of Labor, United States Department of Labor, by and through counsel, files this Complaint under the Fair Labor Standards Act of 1938, as

amended, 29 U.S.C. § 201 et seq. (FLSA or Act), to enjoin Defendants from violating the provisions of sections 6, 7, 11, and 15(a)(2) and 15(a)(5) of the Act, to restrain Defendants from further delay in the payment of unpaid minimum wage and overtime compensation, and to recover the amount of unpaid minimum wages or overtime compensation and an equal amount as liquidated damages on behalf of Defendants present and former employees, including those named in the Attached Exhibit A.

JURISDICTION AND VENUE

1. Jurisdiction of this action is conferred upon the Court by sections 16 and 17 of the FLSA, 29 U.S.C. §§ 216 and 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Venue is appropriate in the District of Wyoming under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims took place in this District.

PARTIES

3. Plaintiff, Hilda Solis, Secretary of Labor, United States Department of Labor, brings this action in her official capacity to recover unpaid minimum wages and overtime compensation owing to employees of Defendants, and an equal amount as liquidated damages, as authorized by section 16(b) of the FLSA, 29 U.S.C. §216 (b).

4. Defendant, Mount Rushmore Broadcasting, Inc., is a Delaware corporation with a principal place of business at 218 N. Wolcott Street, Casper, Wyoming 82601, with at least two other locations in Wyoming, all within the jurisdiction of this Court, and is an employer as defined by section 3(d) of the Act, that is engaged in

broadcasting news and entertainment content via radio frequencies.

5. Defendant Charles Jan Gray, an individual, resides in California, and acted directly or indirectly in the interest of Defendant Mount Rushmore Broadcasting, Inc., in relation to its employees by making managerial and strategic decisions; hiring, disciplining, and firing employees. Mr. Gray is an employer as defined in section 3(d) of the FLSA.

ALLEGATIONS

6. Defendants are subject to the FLSA because their employees work at an instrumentality of interstate commerce, a radio broadcasting company. The Defendants' present and former employees, including those listed in Exhibit A, facilitated the broadcast of news and entertainment content that originated outside the State of Wyoming, and solicited and broadcasted advertising copy from advertisers located outside the State of Wyoming.

7. Defendants willfully violated, and continue to willfully violate, the provisions of sections 6 and 15(a)(2), of the FLSA, 29 U.S.C. §§ 206 and 215(a)(2), by paying certain non-exempt employees below the required federal minimum wage since at least August 1, 2008.

8. Defendants willfully violated, and continue to willfully violate, the provisions of sections 7 and 15(a)(2) of the FLSA by failing to pay salaried, non-exempt employees overtime wages for employment in excess of forty (40) hours per week since at least August 1, 2008.

9. Defendants also violated sections 11(c) and 15(a)(5) of the Act by willfully failing to make, keep, and preserve adequate and accurate records of employees and the wages, hours, and other conditions and practices of employment maintained by them as prescribed by regulations duly issued pursuant to authority granted in the Act and found in 29 C.F.R. § 516. Defendants' records fail to show adequately and accurately, among other things, the hours employees worked each workday and the total hours they worked each workweek. Defendants failed to keep any records of the hours worked by non-exempt salaried employees.

10. As a result of the violations alleged in the preceding paragraphs, Defendants are liable for the amount of unpaid minimum wages or overtime compensation and an equal amount as liquidated damages to certain of Defendants' present and former employees, including, but not limited to, those persons specifically named in Exhibit A, attached hereto, and incorporated herein by reference.

11. To the extent the violations alleged in the preceding paragraphs are continuing, Defendants are also liable to their employees for additional amounts of unpaid minimum wages and overtime compensation, and an equal amount as liquidated damages, that have accrued from April 1, 2011, to the present.

12. Defendants have violated, and may be continuing to violate the FLSA. A judgment enjoining these violations and restraining Defendants from further delay in the payment of unpaid minimum wage and overtime compensation owed to Defendants' present and former employees under the Act is specifically authorized by section 17 of

the Act, 29 U.S.C. § 217.

WHEREFORE, cause having been shown, Plaintiff prays for judgment against Defendants as follows:

1. For an Order pursuant to section 17 of the FLSA permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants, from violating sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act;

2. For an Order pursuant to section 16(c) of the FLSA finding Defendants liable for unpaid minimum wage and overtime compensation owed to Defendants' present and former employees, and for liquidated damages equal to the unpaid compensation owed to Defendants' present and former employees, including those listed in the attached Exhibit A, and for additional compensation and liquidated damages to certain employees and former employees presently unknown to Plaintiff for the period covered by this complaint;

3. For an Order pursuant to section 17 enjoining and restraining Defendants from further delay in the payment of unpaid minimum wage and overtime compensation owed to Defendants' present and former employees under the Act;

4. Pre-judgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. § 6621;

5. Costs of this action; and

6. Such other and further relief as this Court may deem just and appropriate.

DATED this 19th day of November, 2012.

Respectfully submitted,

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DEPARTMENT OF JUSTICE

Exhibit A

<u>Employee Name</u>	<u>Dates of Employment</u>
Baker, Gary	4/05/2008—10/03/2009
Brush, James	3/06/2010—10/02/2010
Groner, Paul	8/01/2009—9/04/2010
Hunter, Glenna	4/05/2008—4/02/2011
McKinnon, Jon Kevin	4/05/2008—4/19/2008
Roybal, John	5/17/2008—06/06/2009