

United States Department of Labor  
Office of the Solicitor  
June 7, 1941

58

LEGAL FIELD LETTER

NO. 58

SUBJECT: Child Labor Industrial Homework Cases  
Under the Fair Labor Standards Act.

In order to coordinate disposition of child labor cases with disposition of wage and hour cases under the Fair Labor Standards Act in the "Industrial Homework Drive," regional attorneys will represent the Chief of the Children's Bureau in the disposition of uncontested industrial homework cases. Accordingly, regional attorneys are hereby authorized to represent the Chief of the Children's Bureau for the purpose of obtaining consent judgments enjoining violations of the child labor provisions of the Act in industrial homework cases under the following conditions:

1. This authority is limited to industrial homework cases resulting from investigations conducted in the course of the industrial homework drive of the Wage and Hour Division and the Children's Bureau.
2. This authority is limited to uncontested cases disposed of by consent judgments.
3. The procedure specified herein does not apply to cases based solely on failure of employers to keep adequate records.
4. Regional attorneys will follow as closely as the facts in each case permit the "model" child labor complaint and judgment for industrial homework (drafts of June 7, 1941 attached).
5. No complaint or judgment will be filed in the name of the Chief of the Children's Bureau until approval in each particular case is received from the Director of the Industrial Division of the Children's Bureau.
6. In each case the Children's Bureau representative participating with a regional office in the industrial homework drive, or if there is no such Children's Bureau representative, then the Regional Attorney will submit to the Director of the Industrial Division of the Children's Bureau a brief statement of the facts in each case involving violations of the child labor provisions of the Act.

7. This statement of facts will contain the following information:

- a. Approximate or estimated total number of employees.
- b. Approximate or estimated number of minor employees under oppressive child labor age; approximate or estimated number under 14; approximate or estimated number between 14 and 16.
- c. The attorney's opinion on the question whether the employer is engaged in shipping or delivering goods for shipment in interstate commerce which are removed from the employer's place of business within 30 days after oppressive child labor is employed in the homes.

If this opinion is based upon the employer's admission rather than evidence of specific goods traced from the home into interstate commerce, care should be taken to ascertain whether the employer admitted: (1) that all or a substantial proportion of his products are shipped in interstate commerce; and (2) that the combined turn-over period in the homes and the employer's plant is a period of not more than 30 days--i.e. that the period from the time materials are distributed to homeworkers to and including the time the finished goods are removed from the employer's place of business for shipment in commerce does not exceed 30 days.

This second point is particularly important because the coverage of section 12(a) depends upon employment in or about a producing establishment and removal from the producing establishment within 30 days of the time under-aged minors were employed. If the employer's admission covers this point, it will satisfy all possible interpretations of the term "establishment" in combination with the 30-day removal clause: that the home is the establishment, the employer's plant is the establishment, or that both constitute the establishment.

- d. Whether any prior inspection of this establishment has been made by the Wage and Hour Division or whether any prior warning has been given to this employer concerning the child-labor provisions of the Fair Labor Standards Act.

- e. Whether (1) the employer has indicated his willingness to consent to the entry of a judgment enjoining child labor violations, wage-hour violations, or both, or (2) the attorney believes he can obtain such consent judgments.
8. The Solicitor's Office will notify the regional attorney by telegram the same day, if possible, and if not, on the day following receipt of a report of a case whether the Children's Bureau desires the regional attorney to obtain a consent judgment in the name of the Chief of the Children's Bureau or whether the Children's Bureau will dispose of the case in some other manner; i.e., by warning letter to the employer or by further investigation for the purpose of preparing the case for criminal or contested civil suit.
9. Upon receiving such approval from the Solicitor's Office the attorney will proceed to obtain a consent judgment and will notify this office as soon as possible upon the entry of the judgment, and will forward a copy of the pleadings in each case conformed with the originals as filed with the clerk of the court. The regional attorney will also forward to this office a copy of his docket entries on the case.

6/7/41

DISTRICT COURT OF THE UNITED STATES

FOR THE MIDDLE DISTRICT OF GEORGIA

DIVISION

Civil Action, File No.

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 :  
 KATHARINE F. LENROOT, :  
 CHIEF OF THE CHILDREN'S BUREAU, :  
 UNITED STATES DEPARTMENT OF LABOR, :  
 :  
 Plaintiff, :  
 :  
 :  
 v. :  
 :  
 XYZ COMPANY, INCORPORATED, :  
 :  
 Defendant. :  
 ----- x

COMPLAINT

I.

Plaintiff brings this action to enjoin defendant from violating the provisions of Section 15(a)(4) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, c. 676, 52 Stat. 1060, U. S. Code, Title 29, sec. 201, et seq.), hereinafter called the Act.

II.

Jurisdiction of this action is conferred upon the Court by Section 17 of the Act.

III.

(In the case of a corporation)

Defendant is, and at all times hereinafter mentioned was, a corporation organized and existing by virtue of the laws of the State of Georgia, having its principal office, place of business and manufacturing establishment at 11 Main Street in the City of Blank, Blank County, Georgia, within the jurisdiction of this Court, and is, and at all times hereinafter mentioned was, engaged at its said establishment in the City of Blank in the production, sale and distribution of \_\_\_\_\_ and in processes and operations necessary thereto.

(Or, in the case of an individual)

Defendant resides at 22 Main Street, City of Blank, Blank County, Georgia, within the jurisdiction of this Court, and is now, and at all times hereinafter mentioned was, the sole owner and operator of a place of business and manufacturing establishment located at 130 Broad Street, in the said City of Blank, Blank County, Georgia, where he is, and at all times hereinafter mentioned was, engaged under the name and style of XYZ Company, in the production, sale and distribution of \_\_\_\_\_ and in processes and operations necessary thereto.

(Or, in the case of a partnership)

Defendant John White resides at 33 Main Street, in the City of Blank, Blank County, Georgia, and defendant Richard Black resides at 44 Main Street, in the City of Blank, Blank County, Georgia, both within the jurisdiction of this Court. Defendants are, and at all times hereinafter mentioned were, partners, doing business under the name and style of XYZ Company, and are, and at all times hereinafter mentioned were, the sole owners and operators of a place of business and manufacturing establishment located at 130 Broad Street, in the said City of Blank, Blank County, Georgia, where they are, and at all times hereinafter mentioned were, engaged in the production, sale and distribution of \_\_\_\_\_ and in processes and operations necessary thereto.

IV.

At all times hereinafter mentioned, defendant has employed, suffered or permitted numerous persons (hereinafter referred to as homeworkers) to work in the manufacture and production of \_\_\_\_\_.

Defendant distributed and caused to be distributed to the said homeworkers materials used in the manufacture and production of said \_\_\_\_\_, and required, suffered, permitted and caused the said homeworkers to work in their homes in the manufacture and production of the said goods and in processes and operations necessary thereto. Defendant instructed and caused said homeworkers to be instructed in the manner, methods and character of the operations necessary to the manufacture and production of the said goods; inspected the said goods upon their return to defendant; paid and caused the said homeworkers to be paid wages therefor; and performed other operations necessary to the manufacture, production, sale and distribution of the said goods.

V.

Within the period beginning on or about \_\_\_\_\_ and continuing to the date hereof, many 1/ of the aforesaid homeworkers employed, suffered or permitted to work by defendant were minors under sixteen (16) years of age.

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1/ Instead of "many" the approximate number may be stated as follows: "at least fifty-five (55)."

VI.

(In the case of shipments by defendant  
directly out of State)

Within the period beginning on or about \_\_\_\_\_ and continuing to the date hereof, defendant has been engaged in shipping and delivering \_\_\_\_\_ for shipment in interstate commerce to various points outside the State of Georgia, the said goods having been produced by defendant in its said establishment or in establishments situated in the State of Georgia in or about which the aforesaid minors under the age of sixteen (16) years were employed, suffered or permitted to work within thirty (30) days prior to removal of said goods therefrom.

(Or, in the case of shipments by defendant  
to points in same State and reshipment  
thereafter out of State)

Within the period beginning on or about \_\_\_\_\_ and continuing to the date hereof, defendant has been engaged in shipping or delivering \_\_\_\_\_ for shipment in interstate commerce to various points within the State of Georgia with knowledge or reason to believe that shipments thereof were to be made to various points outside of said State, the said \_\_\_\_\_ having been produced by defendant in its said establishment or in establishments situated in the State of Georgia in or about which the aforesaid minors under the age of sixteen (16) years were employed, suffered or permitted to work within thirty (30) days prior to removal of said goods therefrom.

(Or, in the case of direct and indirect  
out-of-State shipments)

Within the period beginning on or about \_\_\_\_\_ and continuing to the date hereof, defendant has been engaged in shipping or delivering \_\_\_\_\_ for shipment in interstate commerce to various points outside the State of Georgia and to various points within said State with knowledge or reason to believe that shipments thereof were to be made to various points outside of said State, the said \_\_\_\_\_ having been produced by defendant in his establishment or in establishments situated in the State of Georgia in or about which the aforesaid minors under the age of sixteen (16) years were employed, suffered or permitted to work within thirty (30) days prior to removal of said goods therefrom.

VII.

The shipment and delivery for shipment in interstate commerce by defendant of \_\_\_\_\_ produced in an establishment or in establishments in or about which minors under the age of sixteen (16) years have been employed within thirty (30) days prior to the removal of such goods therefrom constitute violations of Section 15(a)(4) of the Act. A judgment enjoining and restraining the

violations hereinabove alleged is specifically authorized by Section 17 of the Act.

WHEREFORE, cause having been shown, plaintiff demands judgment enjoining and restraining defendant, its officers, agents, servants, employees, attorneys, and all persons acting or claiming to act in its behalf and interest, from violating the provisions of Section 15(a)(4) of the Act, both permanently and during the pendency of this action, and such other and further relief as may be necessary and appropriate.

Post Office Address:

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Gerard D. Reilly,  
Solicitor

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Regional Attorney  
U. S. Department of Labor  
Street,  
City, State

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Irving J. Levy  
Assistant Solicitor in Charge of Litigation

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or

Solicitor's Office  
U. S. Department of Labor  
Washington, D. C.

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Nicholas E. Allen,  
Senior Attorney

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Regional Attorney

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Assistant Attorney (or title of  
staff attorney who worked on the case)

United States Department of Labor

Attorneys for Plaintiff

Filed \_\_\_\_\_

6/7/41

DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF GEORGIA

DIVISION

Civil Action, File No.

----- X  
 KATHARINE F. LENROOT,  
 CHIEF OF THE CHILDREN'S BUREAU,  
 UNITED STATES DEPARTMENT OF LABOR,  
  
 Plaintiff,  
  
 v.  
 XYZ COMPANY, INCORPORATED,  
  
 Defendant.  
 ----- X

JUDGMENT

Plaintiff having filed her complaint, and defendant having appeared by counsel and having waived answer and any defenses to the complaint, and defendant having agreed to the entry of this judgment without contest, and sufficient reason therefor appearing,

NOW, THEREFORE, upon motion of the attorneys for plaintiff, it is

ORDERED, ADJUDGED, AND DECREED that defendant, its officers, agents, servants, employees, attorneys, and all persons acting or claiming to act in its behalf and interest be, and each of them hereby is, permanently enjoined and restrained from:

(1) Violating the provisions of Section 15(a)(4) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, c. 676, 52 Stat. 1060, U. S. Code, Title 29, sec. 201, et seq.); and

(2) Shipping or delivering any goods for shipment in interstate commerce to any point outside the State in which such goods are produced by or for defendant or under its direction, or to any point within such State with knowledge or reason to believe that shipment thereof is to be made to any point outside such State, if such goods are produced, as aforesaid, in any establishment or establishments situated in the United States in or about which within thirty (30)



days prior to the removal of such goods therefrom any oppressive child labor shall have been employed, suffered or permitted to work on or after the date hereof; the term "oppressive child labor" as used herein shall mean oppressive child labor as defined in the Act, and shall include minors employed as homeworkers, that is, minors who produce goods for or on behalf of defendant in or about a home, whether the materials on which they work are furnished by defendant or by others; and it is

FURTHER ORDERED, ADJUDGED, AND DECREED that no costs or disbursements be allowed.

Dated \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

Entry of this judgment  
is hereby consented to:

XYZ COMPANY, INCORPORATED

By \_\_\_\_\_  
John Doe, President

\_\_\_\_\_

\_\_\_\_\_  
Attorneys for Defendant