

COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT – DIVISION 4  
CIVIL ACTION No. 16-CI-3758

ENTERED  
ATTEST, VINCENT RIGGS, CLERK  
FEB - 7 2017  
FAYETTE CIRCUIT CLERK  
BY \_\_\_\_\_ DEPUTY

WILLIAM ASPERI

PLAINTIFF

vs.

**Findings of Fact, Conclusions of Law,  
Judgment and Order**

VENTURE FOODS, LLC, d/ba/ Lexeatin

DEFENDANT

\* \* \* \* \*

This matter came on for evidentiary hearing pursuant to the *Order and Default Judgment* entered herein on January 31, 2017. The Court having heard testimony and being adequately and sufficiently advised finds as follows:

1. Plaintiff William Asperi was employed by defendant Venture Foods, LLC, d/b/a Lexeatin (hereinafter “defendant”) on a full-time basis from January 4, 2016 – April 10, 2016. During this time span, Asperi performed on average 55 hours of compensable work for defendant each work week. Plaintiff’s regular hourly pay rate for this time span was \$10.46 per hour. For the 12 workweeks encompassed by the time period January 4, 2016 – April 10, 2016, plaintiff is owed overtime pay by defendant totaling \$1019.85.

2. Plaintiff was also employed by defendant on a full-time basis from June 6, 2016 – September 27, 2016. During this time span, plaintiff performed 59.5 hours of compensable work for defendant each work week. For the initial 12 weeks of this time span from June 6, 2016 – September 4, 2016, plaintiff’s regular hourly pay rate was \$12.72 per hour. For the 12

workweeks encompassed by the time span June 6, 2016 – September 4, 2016, plaintiff is owed overtime pay by defendant totaling \$1488.24.

3. For the final four weeks that plaintiff was employed by defendant, a time span running from September 5, 2016, to September 27, 2016, plaintiff's regular hourly pay rate was \$7.04 per hour. For the four workweeks encompassed by the time span September 5, 2016, to September 27, 2016, plaintiff is owed overtime pay by defendant totaling \$278.46.

4. The total overtime pay owed plaintiff by defendant is \$2786.55.

5. There has been no showing by defendant that it had a good faith basis for failing and/or refusing to pay plaintiff the overtime pay owed him. Accordingly, pursuant to KRS 337.285(1), plaintiff is entitled to recover liquidated damages from defendant in the sum of ~~\$2786.55~~ <sup>\$15,573.10</sup>.

6. Plaintiff is the prevailing party in this action. Pursuant to KRS 337.285(1), he is entitled to recover reasonable attorney's fees and his costs.

7. Based on a review of the affidavit submitted by plaintiff's counsel, the court finds that a reasonable hourly rate for plaintiff's counsel Robert L. Abell is \$225 per hour, that 18.7 hours of attorney work time has been reasonably expended on pursuing the plaintiff's claim in this action. Accordingly, the court finds that plaintiff is entitled to recover from defendant as his reasonable attorney's fees pursuant to KRS 337.385(1) the sum of \$4,207.50.

8. Based on a review of the affidavit submitted by plaintiff's counsel, the court finds that plaintiff is also entitled to recover his cost and expenses in this action in the sum of \$ 242.88.

9. By the *Order and Default Judgment* entered January 31, 2017, the plaintiff was awarded judgment against defendant on his unpaid wages claim in the sum of \$2000.00. That sum is incorporated in the final judgment below.

WHEREFORE, IT IS ORDERED AND ADJUDGED that the plaintiff William Asperi recover from the defendant Venture Foods, LLC, the sum of twelve thousand twenty-three dollars and forty-eight cents (\$12,023.49), plus interest there on from entry here of at the rate of 12% per annum from date of judgment until paid.

This is a final and appealable judgment and there is no just cause for delay.

Entered this 17<sup>th</sup> day of February 2017.

HON. PAMELA GOODWINE, JUDGE  
FAYETTE CIRCUIT COURT  
BY: [Signature] DEPUTY  
PAMELA R. GOODWINE  
A TRUE COPY  
VINCENT RIGGS, CLERK  
FAYETTE CIRCUIT COURT

Tendered by:

[Signature]

ROBERT L. ABELL  
COUNSEL FOR PLAINTIFF

**Certification of Clerk**

It is hereby certified pursuant to CR 77.04 that a true copy of the foregoing was mailed, postage prepaid, this 7<sup>th</sup> day of Feb, 2017, to the following:

Robert L. Abell  
120 N. Upper St.  
Lexington, KY 40507

Robert A. Hamilton  
152 E. Reynolds Rd., Suite 104  
Lexington, KY 40517

*Vincent P. High*  
*[Signature]*

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FAYETTE CIRCUIT CLERK