

STATE OF MINNESOTA  
COUNTY OF WATONWAN

DISTRICT COURT  
FIFTH JUDICIAL DISTRICT

Case Type: Employment

State of Minnesota, by Nicole Blissenbach, in  
her official capacity as the Commissioner of  
the Minnesota Department of Labor and  
Industry,

Court File No. \_\_\_\_\_

**COMPLAINT**

Plaintiff,

vs.

Tony Downs Foods Co.,

Defendant.

Plaintiff the State of Minnesota, by Nicole Blissenbach, in her official capacity as the Commissioner of the Minnesota Department of Labor and Industry (“DLI”), for her Complaint against Defendant Tony Downs Foods Co. (“Tony Downs”), hereby states and alleges as follows:

**INTRODUCTION**

1. This is a complaint for injunctive relief pursuant to Minn. Stat. § 181A.08 to enjoin and restrain Tony Downs from employing minors in violation of the Child Labor Standards Act in order to protect the safety and well-being of such minors. In its ongoing investigation, DLI has uncovered evidence that Tony Downs employed individuals under the age of 18, including a child as young as 13, in hazardous occupations, on overnight shifts, and for more hours than is permitted by law. The Commissioner seeks a court order enjoining Tony Downs from any further violations of the law.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to Minn. Stat. § 181A.08, subd. 3, which gives the Commissioner the authority to bring an action for injunctive relief to

enjoin and restrain violations of the Minnesota Child Labor Standards Act or of rules adopted pursuant to the Minnesota Child Labor Standards Act. Minn. Stat. § 181A.08, subd. 3.

3. Venue is proper in Watonwan County. Although Minn. Stat. § 181A.08, subd. 3 does not specify a specific venue, Tony Downs operates and maintains a processing facility located in Watonwan County where the violations described below occurred and, upon information and belief, are still occurring.

### **PARTIES**

4. Plaintiff is Commissioner Nicole Blissenbach, the administrative and executive head of the Minnesota Department of Labor and Industry (“DLI”). The Commissioner has broad statutory authority to protect, maintain, and improve safe and equitable working conditions in Minnesota. Pursuant to Minn. Stat. ch. 181A, the Commissioner is responsible for ensuring that any employment of young people, particularly those still enrolled in school, appropriately balances the benefits of employment with schooling and safety considerations through investigation and enforcement of the requirements of the Child Labor Standards Act and its related rules. *See* Minn. Stat. §§ 181A.01-.12.

5. Defendant is Tony Downs Food Co. Tony Downs is a corporation registered with the Minnesota Secretary of State’s Office. Its registered office address and principal executive office address is 54934 210th Lane, Mankato, MN 56001.

6. Tony Downs is a meat processing company that produces packaged meat products. Tony Downs operates a facility located at 418 Benzel Avenue Southwest, Madelia, MN 56062.

### **REGULATORY FRAMEWORK**

7. DLI has authority to investigate facts, conditions, practices, or matters as the commissioner deems appropriate to enforce the laws within the commissioner’s jurisdiction and

to carry out the purposes of Minnesota Statutes chapters 175, 177, 181 and 181A. Minn. Stat. § 175.20.

8. DLI has authority to investigate potential violations of Minnesota's Fair Labor Standards Act and other laws governing the payment of wages to employees. Minn. Stat. § 177.27.

9. DLI also has authority to investigate the possible employment of minors in a manner contrary to the Child Labor Standards Act. Minn. Stat. § 181A.08.

10. In conducting such wage and hour and child labor investigations, DLI may enter and inspect a place of business or employment, may interview employees, and may require the production of documents. Minn. Stat. §§ 175.20, 177.27, 181A.08.

11. The Child Labor Standards Act aims to promote the economic, social, and educational development of young people through employment. Minn. Stat. § 181A.02. While recognizing the importance of the work, the Act provides that work must be balanced with schooling and safety considerations to serve the best interest of young people in Minnesota. To that end, the Act sets minimum standards for the employment of minors in Minnesota.

12. Minnesota's child labor standards are important to foster children's social and educational development. Allowing children to work overnight shifts and into the early morning hours hinders a student's ability to focus and excel in school. Children working overnight are more at risk for skipping class and dropping out of school entirely.

13. Allowing children to work in hazardous occupations endangers children and puts them at risk for injury at work, including serious injuries and even death. It is imperative that Minnesota's youngest workers work in safe environments.

14. The Child Labor Standards Act limits whether and when minors can work. Minors under the age of 14 generally may not be employed in any capacity. Minn. Stat. § 181A.04,

subd. 1. Minors aged 14 and 15 years old may be employed, but generally may not work before 7 a.m., work during school hours on a school day, and after 9 p.m. on a night before a school day. *Id.*, subds. 2, 3. They also may not work more than 8 hours in a 24-hour period or more than 40 hours in a one-week period. *Id.*, subd. 4. Minors aged 16 and 17 years old may be employed but a high school student may not work before 5 a.m. on a school day or after 11 p.m. on a night before a school day. *Id.*, subds. 5, 6.

15. Children under the age of 18 are also not permitted to work in any occupation the Commissioner has found to be particularly hazardous or detrimental to the well-being of minors. Minn. Stat. § 181A.04, subd. 5. The Child Labor Standards Act directs the Commissioner to establish a list of such occupations by rule. *Id.*, §§ 181A.04, subd. 5; 181A.09, subd. 2.

16. Under the rules promulgated by DLI, all children under 18 years of age are prohibited from being employed to operate or assist in the operation of power-driven machinery, including but not limited to forklifts, meat saws, and meat grinders; being employed in oxyacetylene or oxyhydrogen welding; and being employed in any occupation or activity, or any site, which is hazardous or dangerous to life, limb, or health, among other prohibited activities. Minn. R. 5200.0910. Children under the age of 18 also may not work in or about a place of employment where chemicals or gases are present at excessive temperatures or in injurious or toxic quantities. *Id.*

17. There are more protective standards for employing children under the age of 16. In addition to the prohibitions for all children under age 18, children under the age of 16 are prohibited from being employed to operate or assist in the operation of machinery; “in processing plants to do work which includes killing, plucking, singeing, drawing, brining, smoking, slicing, grinding, chopping, or cutting operations;” to do welding of any kind; to clean or maintain any power-driven

machinery; to work in walk-in meat freezers or meat coolers; and to work in any commercial warehouse to do work that includes packaging and shelving. Minn. R. 5200.0920.

18. Employers employing minors are required to request and maintain proof of the age of the minor. Minn. Stat. § 181A.06.

19. The Commissioner has authority to enforce laws and rules pertaining to the employment of children in Minnesota. Specifically, the Commissioner may issue compliance orders requiring an employer to comply with any of the provisions of the Minnesota Child Labor Standards Act or its related rules. Minn. Stat. § 181A.08, subd. 2. The Commissioner may also impose penalties for violations of the Act. *Id.* § 181A.12.

20. The Commissioner has authority to bring a district court action to enjoin and restrain any violation of the Minnesota Child Labor Standards Act or its related rules. Minn. Stat. § 181A.08, subd. 3.

### **FACTUAL BACKGROUND**

21. Tony Downs is a meat processing company that prepares and packages meat products.

22. Tony Downs operates a plant located at 418 Benzel Avenue Southwest in Madelia, located in Watonwan County (hereinafter “Tony Downs’ Madelia plant”).

23. Tony Downs is an employer that employs individuals to work at its Madelia plant.

24. Tony Downs’ employees at the Madelia plant are engaged in “employment” as defined by Minn. Stat. § 181A.03, subd. 5.

25. Tony Downs’ Madelia plant is a processing plant.

26. The work at Tony Downs’ Madelia plant includes meat and poultry processing.

27. The work at Tony Downs’ Madelia plant includes preparing and cooking meat products into different end products, such as canned or frozen meat.

28. Workers at Tony Downs' Madelia plant operate or assist in the operation of machinery.

29. Workers at Tony Downs' Madelia plant operate and assist in the operation of power-driven machinery, such as meat grinders and forklifts.

30. Workers at Tony Downs' Madelia plant work in or around areas of the facilities where chemicals or gases are used that are toxic.

***DLI's investigation of Tony Downs***

31. DLI's Division of Labor Standards and Apprenticeship is generally responsible for investigating potential violations of the Child Labor Standards Act.

32. DLI received a complaint about possible child labor violations occurring at Tony Downs' Madelia plant.

33. After receiving the complaint, DLI initiated a child labor and wage and hour investigation of Tony Downs.

34. During the investigation, DLI was informed that minors were working the overnight shift at Tony Downs and doing hazardous work including operating large machinery such as meat grinders, ovens, and forklifts. DLI was also informed that Tony Downs was aware of the issue. DLI also learned that the minors were working under assumed names and were not native English speakers.

35. DLI obtained names of several employees who were reportedly minors working at Tony Downs.

36. DLI subpoenaed and, in January 2023, received student records from area schools. The records included student names, photographs, and contact information.

37. DLI also met with school staff to determine if there were concerns about students at risk of missing school, having performance issues in school because of being tired or falling asleep in class, and dropping out of school altogether—which are issues that can come up when a minor is working overnight. School staff agreed they had such concerns.

***DLI's on-site inspection of Tony Downs***

38. DLI conducted an on-site inspection of Tony Downs' Madelia plant during the overnight shift.

39. The inspection began in the late evening hours of Thursday, January 26, 2023, and concluded in the early morning hours of Friday, January 27.

40. At the on-site, DLI served Tony Downs with an investigative subpoena and two demands for records. DLI also requested additional documents at the on-site inspection and following the on-site. The requested records included employee names and identifying information, photographs, schedules, and timesheets, among other information.

41. During the on-site inspection, several DLI labor standards investigators toured the facility, interviewed employees, and reviewed Tony Downs' records.

42. DLI's tour of the facility began after 11 p.m.

43. DLI's tour of Tony Downs' Madelia plant covered different areas of the plant, including the areas where employees clock in; the raw product area where raw meat product is kept in containers, mixed, marinated, and ground using large industrial machinery and equipment; the canning area where the raw product is cooked in large ovens, sliced, and put into cans, which are then sealed by large machines that are akin to industrial-sized pressure cookers; the area where the cans are packaged into cases for shipping; the maintenance or welding area; the soft canning area, where meat product is placed in soft pouches rather than metal cans; and the

individually-quick-frozen area, which is kept at a cool temperature and where meat is blended and flash frozen by two refrigeration units that use carbon dioxide and ammonia.

44. Throughout the facility, there is large power-driven machinery such as large mixers, grinders, conveyor belts, ovens, and other industrial-scale machinery.

45. Nearly all of the work at Tony Downs' Madelia plant is hazardous for children.

46. Throughout DLI's inspection and tour of the Madelia plant, DLI observed several employees who appeared to be young—meaning that they appeared to be teenagers and potentially minors.

47. DLI observed these young appearing workers working after 11 p.m.

48. DLI also observed the young employees in different areas of the facility where they were or appeared to be employed in hazardous occupations. For instance, DLI observed young appearing workers engaging in work such as working with or around large machinery in different areas of the facility, operating a forklift, working in the maintenance welding area, and working in the individually-quick-frozen part of the facility that is kept cool and where meat is flash frozen using carbon dioxide and ammonia.

49. DLI also spoke with and interviewed employees during the inspection.

50. During the tour, DLI spoke to two employees who indicated they had high school the next day. One of those employees indicated they were 17.

51. Other employees interviewed by DLI provided unusual or inconsistent information about their age, such as changing their answer, providing an age that did not line up with the birth date provided, needing to review their phone before answering, or asking that they be put down as 40 years old even though the worker could not plausibly be 40.

52. An employee also reported being aware that minors were working there.



***DLI's ongoing investigation and review of Tony Downs' records***

53. Following the on-site inspection, Tony Downs produced records to DLI in February 2023.

54. DLI's investigation of possible child labor and other wage and hour investigations is continuing.

55. To date, DLI has identified several violations of Minnesota's child labor laws at Tony Downs' Madelia plant.

56. DLI's determination of the violations thus far are based on DLI's observations at the on-site inspection and its review of records from Tony Downs and the area schools.

57. The identified violations involve minors working past permissible hours and/or working in hazardous occupations at Tony Downs' Madelia plant.

58. To date, DLI has identified child labor violations involving 8 employees who were identified as current employees of Tony Downs. The violations involve employees under the age of 18 who have been working overnight and/or in hazardous occupations.

59. Of those 8 minor children, DLI has identified 2 employees who are 14 and 15 years of age. These employees have regularly worked until the early morning hours, often ending work after midnight or after 1 or 2 a.m. These employees have regularly worked more than 8 hours in a day and more than 40 hours in a week. These employees also do work that qualifies as a hazardous occupation, such as working in the processing plant in general as well as in the individually-quick-frozen area and otherwise with or around large machinery.

60. A DLI investigator observed the 15-year-old employee during the on-site inspection and approached the employee because the employee appeared young. That employee is one of the employees who reported having high school the next day.

61. DLI has also discovered that the 14-year-old employee began working for Tony Downs at the age of 13.

62. Of the 8 identified minor children, DLI has also identified 6 current employees who are 16 and 17 years of age. Upon information and belief, 5 of those employees are current high school students and regularly work the overnight shift until the early morning hours. All 6 of these employees do work that qualifies as a hazardous occupation, such as working in or around large power-driven machinery and in the individually-quick-frozen area where employees can be exposed to ammonia, which is a toxic gas. Based on injury records Tony Downs produced to DLI, one of these employees has also been injured while on the job.

63. DLI's investigation indicates that Tony Downs' current employment of minor children is not an isolated occurrence.

64. In addition to the 8 current minor employees, to date DLI has identified child labor violations involving multiple Tony Downs employees who are either now over 18 years of age and/or no longer work for Tony Downs but worked for Tony Downs during the two-year period from January 2021 through January 2023 that DLI is investigating. These violations also involve individuals who were under the age of 18 working overnight and/or in hazardous occupations. For instance, DLI identified an employee of Tony Downs who is currently 18 years of age. That employee's employment records show they began working for Tony Downs at 15 years of age and in a position involving hazardous work. Three injury reports provided by Tony Downs describe injuries experienced by this employee when this employee was under age 18.

65. Upon information and belief, the violations of the Minnesota Child Labor Standards Act at Tony Downs' Madelia plant are continuing.

66. As explained above, the 8 minors that DLI has identified were identified as current employees in records produced by Tony Downs to DLI in February 2023. The most recent timesheets produced to DLI for these employees cover the last full week of January 2023, covering January 22 through January 28, 2023, and show that these minors regularly work past permitted hours and into the early morning hours. Tony Downs' recent records also show that these minors are scheduled to work in positions involving hazardous work.

67. Employment of minors in hazardous occupations presents clear and obvious risks to their safety. Additionally, employment of minors at impermissible times and for excessive numbers of hours risks their successful participation in and completion of education.

68. DLI has determined it is necessary to prohibit Tony Downs from employing individuals in violation of the Child Labor Standards Act in order to curtail the present risks to current employees and prevent any further harm to potential employees.

**COUNT I**  
**MINN. STAT. § 181A, SUBD. 3**

69. The Commissioner re-alleges the foregoing paragraphs and incorporates those allegations by reference.

70. Tony Downs violated the Child Labor Standards Act, and in particular Minnesota Statutes section 181A.04, subd. 3, by employing individuals under the age of 16 to work before 7 a.m. or after 9 p.m.

71. Upon information and belief, Tony Downs is continuing to violate the Child Labor Standards Act by employing minors under the age of 16 beyond the hours they can lawfully work, which presents an immediate risk to the safety and well-being of the minor children employed by Tony Downs.

72. Upon information and belief, Tony Downs lacks adequate policies and procedures to prevent further violations of Minn. Stat. § 181A.04, subd. 3.

73. An injunction should issue, pursuant to Minn. Stat. § 181A.08, subd. 3, that prohibits Tony Downs from violating the Child Labor Standards Act.

**COUNT II**  
**MINN. STAT. § 181A.04, SUBD. 6**

74. Tony Downs violated the Child Labor Standards Act, and in particular Minnesota Statutes section 181A.04, subd. 6, by employing individuals who are 16 and 17 years of age and high school students to work after 11 p.m. on an evening before a school day or before 5 a.m. on a school day.

75. Upon information and belief, Tony Downs is continuing to violate the Child Labor Standards Act by employing minors under the age of 18 who are high school students beyond the hours they can lawfully work, which presents an immediate risk to the safety and well-being of the minor children employed by Tony Downs.

76. Upon information and belief, Tony Downs lacks adequate policies and procedures to prevent further violations of Minn. Stat. § 181A.04, subd. 6.

77. An injunction should issue, pursuant to Minn. Stat. § 181A.08, subd. 6, that prohibits Tony Downs from violating the Child Labor Standards Act.

**COUNT III**  
**MINN. STAT. § 181A.04, SUBD. 5 AND MINNESOTA RULES 5200.0910-.0920**

78. Tony Downs violated the Child Labor Standards Act, and in particular Minnesota Statutes section 181A.04, subd. 5, and Minnesota Rules 5200.0910-.0920, by employing individuals under the age of 18 to perform work which the commissioner has found to be

particularly hazardous for individuals under the age of 18 or detrimental to the well-being of individuals under the age of 18.

79. Upon information and belief, Tony Downs is continuing to violate the Child Labor Standards Act and Minnesota Rules, by employing minors under the age of 18 in hazardous occupations, which presents an immediate risk to the safety and well-being of the minor children employed by Tony Downs.

80. Upon information and belief, Tony Downs lacks adequate policies and procedures to prevent further violations of Minn. Stat. § 181A.04, subd. 5, and Minnesota Rules 5200.0910-.0920.

81. An injunction should issue, pursuant to Minn. Stat. § 181A.08, subd. 5, that prohibits Tony Downs from violating the Child Labor Standards Act.

**COUNT IV**  
**MINN. STAT. § 181A.04, SUBD. 1**

82. The Commissioner re-alleges the foregoing paragraphs and incorporates those allegations by reference.

83. Tony Downs has violated the Child Labor Standards Act, and in particular Minnesota Statutes section 181A.04, subd. 1, by employing one or more individuals who was under the age of 14 at the time of their employment.

84. Upon information and belief, Tony Downs lacks adequate policies and procedures to prevent further violations of Minn. Stat. § 181A.04, subd. 1.

85. An injunction should issue, pursuant to Minn. Stat. § 181A.08, subd. 3, that prohibits Tony Downs from violating of the Child Labor Standards Act.

**COUNT V**  
**MINN. STAT. § 181A.04, SUBD. 4**

86. Tony Downs violated the Child Labor Standards Act, and in particular Minnesota Statutes section 181A.04, subd. 4, by employing individuals under the age of 16 to work more than 40 hours in one week and more than eight hours in any 24-hour period.

87. Upon information and belief, Tony Downs lacks adequate policies and procedures to prevent further violations of Minn. Stat. § 181A.04, subd. 1.

88. An injunction should issue, pursuant to Minn. Stat. § 181A.08, subd. 4, that prohibits Tony Downs from violating the Child Labor Standards Act.

**RELIEF**

WHEREFORE, the Commissioner respectfully requests that the Court issue its order and enter judgment against Tony Downs providing the following relief:

1. An order declaring that Tony Downs has violated the Child Labor Standards Act, Minn. Stat. ch. 181A, and Minnesota Rules 5200.0910-.0920;
2. An order pursuant to Minn. Stat. § 181A.08, permanently enjoining and restraining Tony Downs and its agents from violating the Child Labor Standards Act and related rules;
3. An order requiring Tony Downs and its agents to take necessary steps to redress any current violations and to prevent any future violations of the Child Labor Standards Act from occurring, including but not limited to reviewing and revising Tony Downs' policies and procedures; training its employees and agents; and monitoring and auditing its compliance with the Child Labor Standards Act; and

4. An order granting such further and other relief as the Court deems just and proper.

Dated: March 15, 2023

Respectfully submitted,

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**MINN. STAT. § 549.211  
ACKNOWLEDGMENT**

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211 (2022).

Dated: March 15, 2023

/s/ Rachel Bell-Munger

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