

## CASE BRIEF 19.1

*Chao v. Hotel Oasis, Inc.*  
493 F.3d 26 (1<sup>st</sup> Cir. 2007)

**FACTS:** Hotel Oasis, Inc. operates a hotel and restaurant in southwestern Puerto Rico. Dr. Lionel Lugo-Rodríguez (Lugo) is the president of the corporation, runs the hotel, and manages its employees. Oasis's records show that between October 3, 1990 and June 30, 1993, employees were paid less than minimum wage, were not paid for training time or meetings held during non-working hours, were paid in cash “off the books,” and were not paid correctly for overtime. Oasis also maintained two sets of payroll records for the same employees, covering the same time periods, one showing fewer hours at a higher rate, and the other showing more hours at a sub-minimum wage rate. Lugo maintains that the two sets of books were necessary, one for temporary employees and one for permanent employees.

On April 5, 1994, the Secretary of Labor (the “Secretary”) filed a complaint in the United States District Court for the District of Puerto Rico against Oasis and Lugo (“Defendants”), alleging violations of the minimum wage, overtime, and recordkeeping provisions of the Fair Labor Standards Act (“FLSA”). The Secretary also sought liquidated damages.

After years of litigation, On June 21, 2005, the district court ordered Oasis to pay \$141,270.64 in back wages and an equal amount in liquidated damages to 282 current and former employees. The court also found Lugo personally liable for the back wages and penalties. Lugo and Oasis appealed.

**ISSUE ON APPEAL:** Was a finding of an FLAS violation correct? Can an officer be held liable for such violations?

**DECISION:** Yes. Oasis and Lugo are both liable. The violation was willful, as evidenced by the two sets of books. Also, Lugo was in a position of control. He was an owner and did much of the managing. Under those circumstances he would be personally liable. Under the FLSA, an “employer” is “any person acting directly or indirectly in the interest of an employer in relation to an employee.” The First Circuit has followed the Supreme Court's lead in interpreting this definition pursuant to an “economic reality” analysis. Accordingly, there may be multiple “employers” who are simultaneously liable for compliance with the FLSA.

Questions:

1. What shows willfulness of a violation?
2. What are the standards for holding an officer liable for FLSA violations?
3. Explain what liquidated damages are and when they are available for recovery.