

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.01-9096-Civ. Middlebrooks/Bandstra

Carmelina Martinez,  
Jorgelia Velasquez,  
Esther Ramos,  
Maria Ester Escobar Torres,  
Maria Jose Alarcon, and  
Luis Roca,  
individually and on behalf of  
all others similarly situated,

Plaintiffs,

vs.

Complaint--Class Action

Mecca Farms, Inc.,  
Medrano Harvesting & Packing, Inc.,  
Maria Medrano,  
Candido Munoz, Inc.,  
A-Z Grading & Packing, Inc.,  
Candido Packing, Inc., and  
Candido Munoz,

Defendants.

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AMENDED COMPLAINT FOR DAMAGES,  
DECLARATORY RELIEF, LITIGATION COSTS AND ATTORNEY'S FEES

PRELIMINARY STATEMENT

1. This is an action by six packing house workers on behalf of themselves and their co-workers to redress and vindicate rights afforded them by the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §§ 1801-1872 (1999) ("AWPA"), and the Fair Labor Standards Act, 29 U.S.C. §§ 201-219 (1998) ("FLSA") for work performed between 1996 and

2002, inclusive, at Mecca Farms, Inc.'s Lantana, Florida packing houses.

2. Defendant Mecca Farms operates two packing houses in Lantana, Florida. One of these facilities packs tomatoes and the other one packs peppers and other vegetables. Defendant Candido Munoz furnished workers to both Mecca Farms packing houses between 1996 and 2002 as an individual and through corporations including Defendants Candido Munoz, Inc., A-Z Grading & Packing, Inc., and Candido Packing, Inc. Defendant Maria Medrano furnished workers to the Mecca Farms tomato packing house between 1996 and 2002 as an individual and through corporations including Defendant Medrano Harvesting & Packing, Inc.

3. The Plaintiffs bring this action on behalf of themselves and other similarly-situated packing house employees for the Defendants' violations of the AWPA's record keeping, wage statement, and wage payment provisions. The Plaintiffs also seek to recover the minimum and overtime wages due them under the FLSA.

4. The Plaintiffs seek to address these violations of law through money damages, declaratory relief, and attorney's fees on behalf of themselves and others similarly situated.

#### JURISDICTION

5. Jurisdiction is conferred upon this Court by 29 U.S.C. § 1854 (a), this action arising under the AWPA; by 29 U.S.C. § 216 (b), this action arising under the FLSA; and by 28 U.S.C. § 1337, this action arising under Acts of Congress regulating commerce.

6. The Court is empowered to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

## VENUE

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(1)-(2), (c) because all of the Defendants reside in the district, the events or omissions giving rise to the claim occurred in the district, and all the Defendant corporations are subject to personal jurisdiction in this district.

## PARTIES

8. At all times relevant to this action, the Plaintiffs were migrant agricultural workers within the meaning of the AWPAs, 29 U.S.C. § 1802 (8) (A) and 29 C.F.R. § 500.20 (p), in that they were employed in agricultural employment of a seasonal nature and were required to be absent overnight from their respective permanent places of residence.

9. At all times relevant to this action, each of the Plaintiffs was employed in interstate commerce, as defined by the FLSA.

10. Defendant Mecca Farms, Inc. is a Florida corporation based in Lantana, Palm Beach County, Florida. Defendant Mecca Farms, Inc. grows tomatoes, peppers, and other vegetables in and around Palm Beach, Martin, and Broward counties and packs these commodities from its own operations and from the operations of others for sale in interstate commerce.

11. At all times relevant to this action, Defendant Mecca Farms, Inc. was an employer or joint employer of the Plaintiffs, within the meaning of the FLSA, 29 U.S.C. § 203 (d), and was an agricultural employer of the Plaintiffs and the other class members within the meaning of the AWPAs, 29 U.S.C. § 1802 (2).

12. Defendant Maria Medrano, is an individual residing in Lake Worth, Florida, and is the director of Medrano Harvesting & Packing, Inc. At all times relevant to this action,

Defendant Maria Medrano acted as a farm labor contractor within the meaning of the AWP, 29 U.S.C. § 1802 (7), in that, for a fee, she recruited, solicited, hired, furnished or transported agricultural workers for agricultural employment within the meaning of the AWP. Among other things, Defendant Maria Medrano furnished migrant workers to Mecca Farms for work in Mecca Farms' tomato packing house.

13. At various times relevant to this action, Maria Medrano was an employer or joint employer of Plaintiffs Carmelina Martinez, Jorgelia Velasquez, Esther Ramos, Maria Ester Escobar Torres, and Maria Jose Alarcon within the meaning of the FLSA, 29 U.S.C. § 203 (d).

14. Defendant Medrano Harvesting & Packing, Inc. is a Florida corporation based in Lake Worth, Palm Beach County, Florida. Medrano Harvesting & Packing, Inc. served as one of the corporate entities through which Defendant Maria Medrano conducted her farm labor contracting business. At various times relevant to this action, Defendant Medrano Harvesting & Packing, Inc. acted as a farm labor contractor within the meaning of the AWP, 29 U.S.C. § 1802 (7), in that, for a fee, it recruited, solicited, hired, furnished or transported agricultural workers for agricultural employment within the meaning of the AWP. Among other things, Defendant Medrano Harvesting & Packing, Inc. furnished migrant workers to Mecca Farms for work in Mecca Farms' tomato packing house.

15. At various times relevant to this action, Defendant Medrano Harvesting & Packing, Inc. was an employer or joint employer of Plaintiffs Carmelina Martinez, Jorgelia Velasquez, Esther Ramos, Maria Ester Escobar Torres, and Maria Jose Alarcon within the meaning of the FLSA, 29 U.S.C. § 203 (d).

16. Defendant Candido Munoz, is an individual residing in Lake Worth, Florida, and is

the director of Candido Munoz, Inc. and Candido Packing, Inc.. At all times relevant to this action, Defendant Candido Munoz acted as a farm labor contractor within the meaning of the AWP, 29 U.S.C. § 1802 (7), in that, for a fee, he recruited, solicited, hired, furnished or transported agricultural workers for agricultural employment within the meaning of the AWP. Among other things, Defendant Candido Munoz furnished migrant workers to Mecca Farms for work in Mecca Farms' tomato and pepper packing houses.

17. At various times relevant to this action, Defendant Candido Munoz was an employer or joint employer of Plaintiff Carmelina Martinez, Maria Ester Escobar Torres, Maria Jose Alarcon, and Luis Roca within the meaning of the FLSA, 29 U.S.C. § 203 (d).

18. Defendant Candido Munoz, Inc. is a Florida corporation based in Lake Worth, Palm Beach County, Florida. Defendant Candido Munoz, Inc. served as one of the corporate entities through which Defendant Candido Munoz conducted his farm labor contracting business. At all times relevant to this action, Defendant Candido Munoz, Inc. acted as a farm labor contractor within the meaning of the AWP, 29 U.S.C. § 1802 (7), in that, for a fee, it recruited, solicited, hired, furnished or transported agricultural workers for agricultural employment within the meaning of the AWP. Among other things, Defendant Candido Munoz, Inc. furnished migrant workers to Mecca Farms for work in Mecca Farms' tomato and pepper packing houses.

19. At various times relevant to this action, Defendant Candido Munoz, Inc. was an employer or joint employer of Plaintiff Carmelina Martinez, Maria Ester Escobar Torres, Maria Jose Alarcon within the meaning of the FLSA, 29 U.S.C. § 203 (d).

20. Defendant A-Z Grading & Packing, Inc. is a Florida corporation based in Lake Worth, Palm Beach County, Florida. Defendant A-Z Grading & Packing, Inc. served as the

corporate entity through which Defendant Candido Munoz conducted his farm labor contracting business with Defendant Mecca Farms, Inc. At all times relevant to this action, Defendant A-Z Grading & Packing, Inc. acted as a farm labor contractor within the meaning of the AWP, 29 U.S.C. § 1802 (7), in that, for a fee, it recruited, solicited, hired, furnished or transported agricultural workers for agricultural employment within the meaning of the AWP. Among other things, Defendant A-Z Grading & Packing, Inc. furnished migrant workers to Mecca Farms for work in Mecca Farms' tomato and pepper packing houses.

21. At various times relevant to this action, Defendant A-Z Grading & Packing, Inc. employed Plaintiffs Carmelina Martinez, Maria Ester Escobar Torres, and Maria Jose Alarcon within the meaning of the FLSA, 29 U.S.C. § 203 (d).

22. Defendant Candido Packing, Inc. is a Florida corporation based in Lake Worth, Palm Beach County, Florida. Defendant Candido Packing, Inc. served as one of the corporate entities through which the Defendant Candido Munoz conducted his farm labor contracting business. At all times relevant to this action, Defendant Candido Packing, Inc. acted as a farm labor contractor within the meaning of the AWP, 29 U.S.C. § 1802 (7), in that, for a fee, it recruited, solicited, hired, furnished or transported agricultural workers for agricultural employment within the meaning of the AWP. Among other things, Defendant Candido Packing, Inc. furnished migrant workers to Mecca Farms for work in Mecca Farms' tomato and pepper packing houses.

23. At various times relevant to this action, Defendant Candido Packing, Inc. was an employer or joint employer of Plaintiffs Carmelina Martinez, Maria Jose Alarcon, and Luis Roca within the meaning of the FLSA, 29 U.S.C. § 203 (d).

## CLASS ACTION ALLEGATIONS

24. All claims set forth in Counts I and II are brought by the Plaintiffs on behalf of themselves and all other similarly situated persons pursuant to Fed. R. Civ. P. 23 (b)(3).

25. The first class (the “Tomato Class”) consists of all migrant agricultural workers employed or jointly employed by Defendants Mecca Farms, Inc., in Mecca Farms’ tomato packing house from October 1996 through March 2002, inclusive.

26. The second class (the “Pepper Class”) consists of all migrant agricultural workers employed or jointly employed by Defendants Mecca Farms, Inc., in Mecca Farms’ pepper packing house from October 1996 through March 2002, inclusive.

27. Only the Defendants know the precise number of individuals in each class. Each class is believed to include over 1,000 individuals. The classes are comprised almost exclusively of indigent migrant workers who are not fluent in the English language. The relatively small size of the individual claims and the indigence of the class members make the maintenance of separate actions by each class member economically infeasible. Joinder of all class members is impracticable.

28. There are questions of law and fact common to the Tomato Class. The common legal and factual questions include:

whether Defendant Mecca Farms, Inc. was an employer or joint employer of the members of the class;

whether the Defendants’ failure to deposit with an appropriate governmental agency the sums regularly deducted from the class members’ wages for purposes of employee social security contributions violated the AWPA;

whether the Defendants violated the AWPA by failing to pay the class members overtime wages for any time worked in excess of forty hours in a workweek;

whether the Defendants violated the AWPAs by paying the class members according to the time recorded as the “belt time” instead of the time recorded on the class members’ individual time cards;

whether the Defendants violated the AWPAs by failing to pay the class members for time while engaged to wait before punching in to the company time clock at the beginning of the workday;

whether the Defendants violated the AWPAs by failing to compensate the class members for the time they were engaged to wait during periods of inactivity of the packing line.

29. There are questions of law and fact common to the Pepper Class. The common legal and factual questions include:

whether Defendant Mecca Farms, Inc. was an employer or joint employer of the members of the class;

whether the failure of Defendants Mecca Farms, Inc., Candido Munoz, Inc., A-Z Grading & Packing, Inc., Candido Packing, Inc., and Candido Munoz (the “Pepper Defendants”) to deposit with an appropriate governmental agency the sums regularly deducted from the class members’ wages for purposes of employee social security contributions violated the AWPAs;

whether the Pepper Defendants violated the AWPAs by failing to pay overtime wages for any time worked in excess of forty hours in a workweek.

30. The claims of the named Plaintiffs are typical of those of the class members, and these typical, common claims predominate over any questions affecting only individual class members. The named Plaintiffs have the same interests as do the other class members and will vigorously prosecute these interests on behalf of the classes.

31. The Plaintiffs’ counsel have handled numerous class actions in the federal courts, including class actions under AWPAs. The Plaintiffs’ counsel are prepared to advance litigation costs necessary to vigorously litigate the action.

32. A class action under Rule 23 (b)(3) is superior to other available methods of adjudicating this controversy, inter alia:

a. The common issues of law and fact, as well as the relatively small size of the individual class members' claims, substantially diminish the interest of class members in individually controlling the prosecution of separate actions;

b. Many members of the classes are unaware of their rights to prosecute these claims and lack the means or resources to secure legal assistance;

c. There has been no litigation already commenced against the Defendants by the class members to determine the questions presented;

d. It is desirable that the claims be heard in this forum because the Defendants reside in this judicial district; and

e. A class action can be managed without undue difficulty because the Defendants have regularly committed the violations complained of herein, and are required by law to maintain detailed records concerning each class member.

#### COUNT I

#### Migrant and Seasonal Agricultural Worker Protection Act (Tomato Class)

33. This count sets forth a claim by Plaintiffs Carmelina Martinez, Jorgelia Velasquez, Esther Ramos, Maria Ester Escobar Torres, and Maria Jose Alarcon (the "Tomato Plaintiffs") and the other members of the Tomato Class for damages and declaratory relief for the Defendants' violations of the AWPA and its attendant regulations.

34. The Plaintiffs reallege and incorporate by reference the allegations set forth in

paragraphs 1 through 33 of the complaint.

35. The Defendants failed to pay the Tomato Plaintiffs and the other Tomato Class members their wages when due in violation of the AWP, 29 U.S.C. § 1822 (a) and its attendant regulations, 29 C.F.R. § 500.72.

36. The violations in paragraph 35 resulted, in part, from the Defendants' failure to deposit with an appropriate governmental agency the sums regularly deducted from the Tomato Class members' wages for the purposes of employee social security contributions.

37. The violations in paragraph 35 resulted, in part, from the Defendants' practice of paying the Tomato Class members according to the time recorded as the "belt time" instead of the time recorded on the Tomato Class members' individual time cards.

38. The violations in paragraph 35 resulted, in part, from the Defendants' failure to pay the Tomato class members for time spent while they were engaged to wait before punching in to the company time clock.

39. The violations in paragraph 35 resulted, in part, from the Defendants' failure to compensate the Tomato Class members for the time they were engaged to wait during periods of inactivity of the tomato line.

40. The violations in paragraph 35 resulted, in part, from the Defendants' failure to pay the Tomato Class members overtime wages for any time worked in excess of forty hours in a workweek.

41. At all times relevant to this action, the Defendants failed to make, keep and maintain records regarding the work of the Tomato Plaintiffs and the other Tomato Class members as required by the AWP, 29 U.S.C. § 1821 (d)(1), and its attendant regulations, 29 C.F.R. §

500.80 (a). Among other things, the Defendants failed to make, keep and maintain records accurately reflecting the number of compensable hours worked and the specific sums withheld and the purpose of each sum withheld.

42. In violation of the AWPAs, 29 U.S.C. § 1821 (d)(2), and its attendant regulations, 29 C.F.R. §500.80 (d), the Defendants failed to provide the Tomato Plaintiffs and the other Tomato class members each pay period with a written statement accurately showing, among other things, the number of hours worked and the specific sums withheld and the purpose of each sum withheld.

43. The violations of the AWPAs and its attendant regulations as set forth in this count were the natural consequences of the conscious and deliberate actions of the Defendants and were intentional within the meaning of the AWPAs, 29 U.S.C. § 1854 (c)(1).

44. As a result of the Defendants' violations of the AWPAs and its attendant regulations as set forth in the count, the Tomato Plaintiffs and the other Tomato Class members have suffered damages.

COUNT II  
Migrant and Seasonal Agricultural Worker Protection Act  
(Pepper Class)

45. This count sets forth a claim by Plaintiffs Maria Jose Alarcon and Luis Roca (the “Pepper Plaintiffs”) and the other members of the Pepper Class for damages and declaratory relief to the AWPAs violations and its attendant regulations by Defendants Mecca Farms, Inc., Candido Munoz, Inc., A-Z Grading & Packing, Inc., Candido Packing, Inc., and Candido Munoz (“Pepper Defendants”).

46. The Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 45 of the complaint.

47. The Pepper Defendants failed to pay the Pepper Plaintiffs and the other Pepper Class members their wages when due in violation of the AWP, 29 U.S.C. § 1822 (a) and its attendant regulations, 29 C.F.R. § 500.72.

48. The violations in paragraph 47 resulted, in part, from the Pepper Defendants' failure to deposit with an appropriate governmental agency the sums regularly deducted from the Pepper class members' wages for the purposes of employee social security contributions.

49. The violations in paragraph 47 resulted, in part, from the Pepper Defendants' failure to pay the Pepper Class members overtime wages for any time worked in excess of forty hours in a workweek.

50. At all times relevant to this action, the Pepper Defendants failed to make, keep and maintain records regarding the work of the Pepper Plaintiffs and the other Pepper Class members as required by the AWP, 29 U.S.C. § 1821 (d)(1), and its attendant regulations, 29 C.F.R. § 500.80 (a). Among other things, the Pepper Defendants failed to make, keep and maintain records accurately reflecting the specific sums withheld and the purpose of each sum withheld.

51. In violation of the AWP, 29 U.S.C. § 1821 (d)(2), and its attendant regulations, 29 C.F.R. §500.80 (d), the Pepper Defendants failed to provide the Pepper Plaintiffs and the other Pepper Class members each pay period with a written statement accurately showing, among other things, the specific sums withheld and the purpose of each sum withheld.

52. The violations of the AWP and its attendant regulations as set forth in this count were the natural consequences of the conscious and deliberate actions of the Pepper Defendants

and were intentional within the meaning of the AWP, 29 U.S.C. § 1854 (c)(1).

53. As a result of the Pepper Defendants' violations of the AWP and its attendant regulations as set forth in the count, the Pepper Plaintiffs and the other Pepper class members have suffered damages.

### COUNT III

#### Fair Labor Standards Act

Defendants Mecca Farms, Inc., Medrano Harvesting & Packing, Inc., Maria Medrano, Candido Munoz, Inc., A-Z Grading & Packing, Inc., Candido Packing, Inc., and Candido Munoz.  
("Tomato Defendants")

54. This count sets forth a claim by the Tomato Plaintiffs for damages for violations of the minimum wage and overtime provisions of the FLSA by the Defendants for work performed in Mecca Farms' tomato packing house from October 1996 through March 2002, inclusive.

55. The Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 54 of the complaint.

56. The Defendants violated the FLSA, 29 U.S.C. § 206 (a) by failing to pay the Tomato Plaintiffs the applicable minimum wage for every compensable hour of labor they performed in Mecca Farms' tomato packing house.

57. The violations in paragraph 56 resulted, in part, from the Defendants' failure to deposit with an appropriate governmental agency the sums regularly deducted from the Tomato Plaintiffs' wages for the purposes of employee social security contributions.

58. The violations in paragraph 56 resulted, in part, from the Defendants' practice of paying the Tomato Plaintiffs according to the time recorded as the "belt time" instead of the time

recorded on the class members' individual time cards.

59. The violations in paragraph 56 resulted, in part, from the Defendants' failure to pay the Tomato Plaintiffs for time spent while they were engaged to wait before punching in to the company time clock.

60. The violations in paragraph 56 resulted, in part, from the Tomato Defendants' failure to compensate the Tomato Class members for the time they were engaged to wait during periods of inactivity of the tomato line.

61. The Defendants failed to pay overtime wages as required by the FLSA, 29 U.S.C. § 207 (a) throughout the period they employed the Tomato Plaintiffs to work in the tomato packing house operated by Mecca Farms, Inc. in Lantana, Florida.

62. At no time relevant to this action did the Defendants post in a conspicuous place at the Mecca Farms' tomato packing house a poster or other written statement advising the Tomato Plaintiffs of their right to minimum and overtime wages under the FLSA. Such posting is required by regulations issued under the FLSA, 29 C.F.R. § 516.4.

63. As a consequence of the Defendants' FLSA violations, the Tomato Plaintiffs are entitled to recover the unpaid minimum and overtime wages due them plus an additional equal amount in liquidated damages, pursuant to 29 U.S.C. § 216 (b).

COUNT IV

Fair Labor Standards Act

Defendants Mecca Farms, Inc., Candido Munoz, Inc., A-Z Grading & Packing, Inc.,  
Candido Packing, Inc., and Candido Munoz.  
("Pepper Defendants")

64. This count sets forth a claim by the Pepper Plaintiffs for damages for violations of the FLSA minimum wage and overtime provisions by the Pepper Defendants for work performed at the Mecca Farms' pepper packing house from October 1996 through March 2002, inclusive.

65. The Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 64 of the complaint.

66. The Pepper Defendants violated the FLSA, 29 U.S.C. § 206 (a) by failing to pay the Pepper Plaintiffs the applicable minimum wage for every compensable hour of labor they performed. Among other things, the Pepper Defendants failed to deposit with an appropriate governmental agency the sums regularly deducted from the Pepper Plaintiffs' wages for the purposes of employee social security contributions.

67. The Pepper Defendants failed to pay overtime wages as required by the FLSA, 29 U.S.C. § 207 (a) throughout the period they employed the Pepper Plaintiffs to work in the pepper packing house operated by Mecca Farms, Inc. in Lantana, Florida.

68. At no time relevant to this action did the Pepper Defendants post in a conspicuous place at the Mecca Farms' pepper packing house a poster or other written statement advising the Pepper Plaintiffs of their right to the minimum and overtime wages under the FLSA. Such posting is required by regulations issued under the FLSA, 29 C.F.R. § 516.4.

69. As a consequence of the Pepper Defendants' FLSA violations, the Pepper Plaintiffs

are entitled to recover the unpaid minimum and overtime wages due them plus an additional equal amount in liquidated damages, pursuant to 29 U.S.C. § 216 (b).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court will enter an order:

- (a) Certifying the case as a class action in accordance with Federal Rules of Civil Procedure 23(b)(3) with respect to the claims set forth in Counts I and II;
- (b) Declaring that the Defendants have intentionally violated the AWPAs, as set forth in Count I, relating to Mecca Farms' tomato packing house;
- (c) Granting judgment for the Tomato Plaintiffs and the other Tomato Class members and against the Defendants, jointly and severally, on the AWPAs claims as set forth in Count I and awarding each of these workers his or her actual damages or statutory damages of \$500, whichever is greater, for every violation of the AWPAs and its attendant regulations set forth in the count;
- (d) Declaring that the Pepper Defendants have intentionally violated the AWPAs, as set forth in Count II, relating to Mecca Farms' pepper packing house;
- (e) Granting judgment for the Pepper Plaintiffs and the other Pepper Class members and against the Pepper Defendants, jointly and severally, on the AWPAs claims as set forth in Count II and awarding each of the workers his or her actual damages or statutory damages of \$500, whichever is greater, for every violation of the AWPAs and its attendant regulations set forth in the count;
- (f) Granting judgment for the Tomato Plaintiffs and against the Defendants, jointly and

severally, on the FLSA claims as set forth in Count III, relating to work performed in Mecca Farms' tomato packing house, and awarding each of these Plaintiffs her unpaid minimum and overtime wages and an equal amount as liquidated damages;

(g) Declaring that the Defendants have violated the FLSA as set forth in Count III.

(h) Granting judgment for the Pepper Plaintiffs and against the Pepper Defendants, jointly and severally, on the FLSA claims as set forth in Count IV, relating to Mecca Farms' pepper packing house, and awarding each of these Plaintiffs her or his unpaid minimum and overtime wages and an equal amount as liquidated damages;

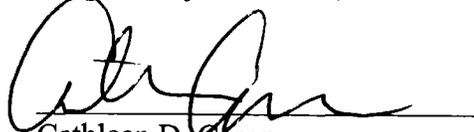
(i) Declaring that the Pepper Defendants have violated the FLSA as set forth in Count IV;

(j) Awarding the Plaintiffs the costs of this action;

(k) Awarding the Plaintiffs a reasonable attorney's fee with respect to the FLSA claims and the claims under the wage payment provisions of the AWPAA;

(l) Granting such further relief as this Court deems just and equitable.

Respectfully submitted,



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Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by first class United States mail, postage prepaid, to the below-listed counsel of record this 20<sup>th</sup> day of May, 2002:

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