



engaged in manual labor restoring court, hospital, and Tulane University buildings for Defendant in the aftermath of hurricane Katrina. For many weeks, Plaintiffs and other class members worked seven days a week, twelve hours a day restoring buildings contaminated by mold and floodwater. Plaintiffs did this dangerous work to earn money to better support themselves and/or their families. Almost all Plaintiffs and other class members are individuals who have limited proficiency in English. Defendant exploited Plaintiffs' and other class members' indigence, inability to speak or understand English, and the lack of understanding of the laws of the United States to grossly underpay them.

1.3 Defendant employed Plaintiffs and other class members as unskilled manual laborers by using a subcontractor system. Defendant attempted to manipulate this system to evade its legal responsibility under the Fair Labor Standards Act to pay overtime wages. At all times, however, Defendant was a joint-employer of Plaintiffs and other class members.

1.4 Plaintiffs seek unpaid wages, an award of money damages, and declaratory relief to make them whole for damages they suffered due to the Defendant's violations of law.

#### JURISDICTION

2.1 The jurisdiction of this Court is invoked pursuant to

28 U.S.C. §§ 1331 and 1337.

2.2 The federal claims in this action are authorized and instituted pursuant to 29 U.S.C. § 216(b). This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

2.3 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

**PARTIES**

3.1 Plaintiffs are other class members are workers who primarily resided and worked along the Gulf Coast during the time relevant to this action.

3.2 Defendant Belfor USA Group Inc. (hereinafter "Belfor") is a corporation incorporated in the state of Colorado and registered as a foreign corporation with the Secretary of State of Louisiana.

3.3 During the time period relevant to this lawsuit, Defendant was engaged in hurricane mitigation and reconstruction work in New Orleans and had significant contacts with the state of Louisiana and this District such that jurisdiction and venue are proper in this Court.

**Statement of Facts**

4.1 At all times relevant to this action, Defendant employed Plaintiffs and other class members within the meaning of 29 U.S.C. § 203(g).

4.2 At all times relevant to this action, Plaintiffs and other class members were employed by the Defendant in an enterprise engaged in commerce or the production of goods for commerce.

4.3 At all times relevant to this action, Plaintiffs and other class members were employees of Defendant within the meaning of 29 U.S.C. § 203(e)(1).

4.4 At all times relevant to this action, Defendant was an employer of Plaintiffs and the other class members within the meaning of 29 U.S.C. § 203(d).

4.5 Plaintiffs and other class members worked as unskilled manual laborers on the Gulf Coast in the hurricane mitigation industry.

4.6 Plaintiffs and other class members performed substantially similar unskilled manual labor work in public and private buildings including but not limited to courts, hospitals, and Tulane University.

4.7 Plaintiffs and other class members have limited proficiency in English.

4.8 Plaintiffs and other class members routinely worked over 40 hours a week.

4.9 Defendant did not pay Plaintiffs and other class members overtime wages when they worked in excess of 40 hours in

a workweek.

4.10 Defendant did not pay Plaintiffs and other class members on regular paydays as required by the FLSA.

**COLLECTIVE ACTION ALLEGATIONS**

5.1 All claims set forth in Count I are brought by Plaintiffs on behalf of themselves and all other similarly situated persons pursuant to 29 U.S.C. § 216(b) the Fair Labor Standards Act.

5.2 The named Plaintiffs seek to represent a class consisting of all those individuals, performing unskilled manual labor for subcontractors of Belfor on Belfor contracts in the post-Katrina reconstruction and restoration in the Gulf Coast region from August 29, 2005 until the date of filing of the present action, who were eligible for overtime pursuant to 29 U.S.C. § 207 and who did not receive overtime pay.

5.3 Plaintiffs and other class members were hired by subcontractors utilized by Defendant to fill Defendant's needs for manual labor in conducting cleanup and reconstruction work in the Gulf Coast. However, at all times relevant to this action, Defendant acted as a joint employer of Plaintiffs and other class members with those subcontractors.

5.4 The precise number of individuals in the class is known only to the Defendant. The class is believed to include well

over one thousand individuals.

5.6 The questions of fact are common to the class, including whether Defendant failed to pay named Plaintiffs and other class members overtime wages promptly when due, as required by law.

5.7 The claims of the named Plaintiffs are typical of the class, 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 members of the class and will vigorously prosecute these interests on behalf of the class.

**COUNT I**  
**(FAIR LABOR STANDARDS ACT COLLECTIVE ACTION)**

6.1 This count sets forth a claim for declaratory relief and damages by Plaintiffs and other current or former workers employed by Defendant who are similarly situated, for Defendant's violations of the overtime provisions of the Fair Labor Standards Act ("FLSA").

6.2 Plaintiffs re-allege and incorporate by reference the allegations set forth above.

6.3 Pursuant to 29 U.S.C. § 216(b), Plaintiffs Moises Rodrigues, Sergio Oliveira, Edson Silva, Wanderson de Souza and Alexandre Rocha have consented in writing to be party plaintiffs

in this FLSA action. Their written consents are attached to this complaint.

6.4 Defendant violated 29 U.S.C. § 207(a) by failing to pay Plaintiffs and others similarly situated at an hourly rate equal to one and a half times the regular hourly rate at which they were employed for all compensable time they were employed in excess of forty hours in each workweek.

6.5 Defendant's failure to pay Plaintiffs and others similarly situated the federally mandated overtime wage rate for all time they were employed in excess of forty (40) in each workweek was a willful violation of the FLSA.

6.6 As a consequence of the Defendant's violation of the FLSA, Plaintiffs and others similarly situated are entitled to recover their unpaid minimum and overtime wages, plus an additional equal amount in liquidated damages, pursuant to 29 U.S.C. § 216(b).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that this Court will order:

1. With respect to the claims set forth in Count I, permitting this case to proceed as a collective action, ordering the Defendant to disclose in computer readable format the names and addresses of all those individuals who are similarly situated, and permitting Plaintiffs to send notice of this

action to all those similarly situated individuals.

2. Declaring that Defendant willfully violated the overtime provisions of the Fair Labor Standards Act, as set forth in Count I;

3. Granting judgment in favor of Plaintiffs and all others similarly situated and against the Defendant on their claims under the Fair Labor Standards Act as set forth in Count I and awarding each of these Plaintiffs and all other similarly situated individuals who opt-in to this action his unpaid overtime wages and an equal amount in liquidated damages;

4. Awarding Plaintiffs the costs of this action;

5. Awarding Plaintiffs reasonable attorney's fees; and;

6. Granting such further relief as this Court deems just and equitable.

Respectfully submitted this 28th day of March 2006.

  
Jennifer J. Rosenbaum  
Tennessee B.P.R. No. 022557

Admitted *Pro Hac Vice*

Mary Bauer

Virginia Bar Number 31388

Admitted *Pro Hac Vice*

**Immigrant Justice Project**

**Southern Poverty Law Center**

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Montgomery, Alabama 36104

334-956-8200

334-956-8481 (fax)

  
Hector Linares  
Juvenile Justice Project of Louisiana  
1600 Oretha Castle Haley Blvd.  
New Orleans, LA 70113  
(504) 522-5437  
(504) 522-5430 (fax)

Attorneys for Plaintiffs

Certificate of Service

I hereby certify that on March 28, 2006, I served a copy of the following on Mr. David Kurtz, attorney for Defendant, at the following address via regular mail.

Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC  
201 St. Charles Ave, Suite 3600  
New Orleans, Louisiana 70170

  
Jennifer J. Rosenbaum

**FLSA CONSENT FORM / CONSENTIMENTO PARA AÇÃO TRABALHISTA**

I hereby give my consent to sue for wages that may be owed to me under the Fair Labor Standards Act. I hereby authorize my attorneys to represent me before any court or agency on these claims.

Maiss Rodrigues  
NAME  
Maiss Rodrigues  
SIGNATURE  
03 10 2006  
DATE



Por meio desta dou meu consentimento para que se estabeleça uma ação para recebimento de pagamento devido a mim sob a Lei de Normas Trabalhistas Justas (Fair Labor Standards Act.)  
Por meio desta autorizo meus advogados a me representarem perante qualquer corte ou agência no que se refere a estas queixas.

Maiss Rodrigues  
NOME  
Maiss Rodrigues  
ASSINATURA  
03 10 2006  
DATA

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NAME

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Sergio Ferreira de Oliveira  
NOME

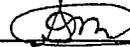
Sergio Ferreira de Oliveira  
ASSINATURA

19.01.2006  
DATA

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Edson Marcelino da Silva  
NAME

  
SIGNATURE

\_\_\_\_\_  
DATE

.....

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Edson Marcelino da Silva  
NOME

  
ASSINATURA

02-19-06  
DATA

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\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

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\_\_\_\_\_  
NOME

\_\_\_\_\_  
ASSINATURA

\_\_\_\_\_  
DATA

WANDERSON A. de SOUZA  
16/02/2006

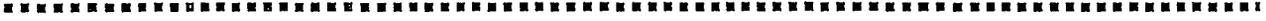
**FLSA CONSENT FORM / CONSENTIMENTO PARA AÇÃO TRABALHISTA**

I hereby give my consent to sue for wages that may be owed to me under the Fair Labor Standards Act. I hereby authorize my attorneys to represent me before any court or agency on these claims.

Alexandro Rocha.  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE



Por meio desta dou meu consentimento para que se estabeleça uma ação para recebimento de pagamento devido a mim sob a Lei de Normas Trabalhistas Justas (Fair Labor Standards Act.)  
Por meio desta autorizo meus advogados a me representarem perante qualquer corte ou agência no que se refere a estas queixas.

Alexandro Rocha.  
NOME

\_\_\_\_\_  
ASSINATURA

20.01.2006  
DATA