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U.S. DISTRICT COURT  
EAST DISTRICT OF LA

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

JULIO NAVARRETE-CRUZ,  
SERGIO DE LEON, and  
ADRIAN SALAZAR,

on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

LVI ENVIRONMENTAL SERVICES  
OF NEW ORLEANS, INC.,  
and D&L ENVIRONMENTAL INC.,

Defendants.

Case No.

**06-0489**

**SECT K MAG 4**

COMPLAINT- COLLECTIVE ACTION

PRELIMINARY STATEMENT

1.1 This is an action brought by individuals who have worked and/or are working in the reconstruction of New Orleans, Louisiana. Plaintiffs seek redress on behalf of themselves and

others similarly situated for Defendants' violation of their rights under the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. ("FLSA").

1.2 Plaintiffs bring this action on behalf of a class of hundreds of workers, predominantly immigrants, who restored public elementary and high school buildings for Defendants as part of the reconstruction of the New Orleans area in the aftermath of hurricane Katrina. For many weeks, Plaintiffs and other class members removed mold, mud, and debris and prepared city schools for reopening. They often worked seven days a week, twelve hours or more a day, in these contaminated environments to earn money to better support themselves and/or their families. Almost all of the Plaintiffs and other class members are individuals with limited English proficiency. Defendants exploited Plaintiffs' and other class members' indigence, inability to speak or understand English, and their lack of understanding of the laws of the United States regarding payment of wages, grossly underpaying them.

1.3 Defendant LVI Environmental Services of New Orleans, Inc. (hereinafter "LVI") had contracts to perform reconstruction and clean-up in New Orleans. In order to provide the manual labor needed to fulfill these contracts, LVI hired subcontractors, including D & L Environmental, Inc. (hereinafter

"D & L"), to provide workers. Defendant LVI used this subcontractor system to evade responsibility to pay minimum wage and overtime wages as required by the Fair Labor Standards Act.

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 Defendants' violations of the FLSA.

#### 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).

2.3 This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

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

#### PARTIES

3.1 Plaintiffs are migrant workers who resided and worked in New Orleans, Louisiana during the time relevant to this action.

3.2 Defendant LVI Environmental Services of New Orleans, Inc., is a corporation incorporated in the state of Louisiana.

3.3 Defendant D & L, Inc., is a corporation incorporated in the state of Florida.

3.4 During the time period relevant to this lawsuit, Defendants were engaged in 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.

**Fact Statement**

4.1 At all times relevant to this action, Defendants jointly 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 Defendants 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 Defendants within the meaning of 29 U.S.C. § 203(e)(1).

4.4 At all times relevant to this action, Defendants were employers 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 in public elementary and high schools.

4.6 Plaintiffs and other class members have limited English proficiency.

4.7 Plaintiffs and other class members regularly worked over 40 hours a week.

4.8 Defendants did not timely pay Plaintiffs and other class members at least the minimum wage for all hours worked in each workweek.

4.5 Defendants did not timely pay Plaintiffs overtime wages for all hours worked in excess of 40 hours in each workweek.

4.9 Defendants 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) of the Fair Labor Standards Act.

5.2 The named Plaintiffs seek to represent a class consisting of all those individuals to whom Defendants failed to pay minimum wage and overtime when due as required by law and who were employed by Defendants in post-Katrina reconstruction and restoration work in the Gulf Coast region from August 29, 2005 until the date of filing of the present action.

5.3 The precise number of individuals in the class is known only to Defendants. The class is believed to include over

700 individuals.

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

5.5 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 Defendants who are similarly situated, for Defendants' violations of the minimum wage and overtime provisions of the Fair Labor Standards Act ("FLSA"). The Fair Labor Standards Act provides that employees may bring collective actions on behalf of themselves and other employees similarly situated.

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 Julio Navarrete-Cruz, Sergio De Leon, and Adrian Salazar have consented in writing to be party plaintiffs in this FLSA action. Their written consents are attached to this complaint.

6.4 Defendants violated 29 U.S.C. § 206(a) by failing to timely pay each Plaintiff and others similarly situated the applicable minimum wage for every compensable hour of labor they performed.

6.5 Defendants violated 29 U.S.C. § 207(a) by failing to timely 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.

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

6.7 As a consequence of Defendants' 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 enter an order:

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

2. Declaring that Defendants willfully violated the minimum wage and 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 Defendants 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;

6. Granting such further relief as this Court deems



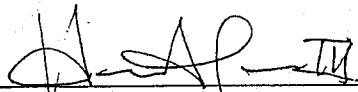
just and equitable.

Respectfully submitted this 1 day of February, 2006



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