

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
Keith Archie; Rudy Askew; Raymond Del Valle; :
Percival Dennis; Cynthia Dilbert; :
Joyce Dorsey; William Farrior; Carlton Ford; :
Fitzroy Frederick; Miles Harp; Felicia Hart; :
Warren Hartshorn; Jay Hemphill; :
Derrick Johnson; William Johnson; :
William J. Johnson; Mona Lisa Larry; :
Gregory Lloyd; Frederick Mack; :
Ronald Manning; Mark McMillan; Regina Miller; :
Ernest Montgomery; James Moore; Dennis Novak; :
Nina Paul; Nathan Rhames; José Rodriguez; :
William Scott; David Solomon; Lee Springer; :
Zachary Suddith; Arnold Thornton; :
Stanley Turner; Tony Turner; Thelma Wall; : 95 Civ. 0694 (SS)
James Whitman; Earl Williams; :
Jerome Williams; and Oscar Willis; :
on behalf of themselves and :
all others similarly situated, : COMPLAINT
:
Plaintiffs, :
:
v. :
:
Grand Central Partnership, Inc., Grand :
Central Partnership Social Services :
Corporation, and 34th Street Partnership, Inc., :
:
Defendants. :
:
-----x

Plaintiffs Keith Archie, Rudy Askew, Raymond Del Valle, Percival Dennis, Cynthia Dilbert, Joyce Dorsey, William Farrior, Carlton Ford, Fitzroy Frederick, Miles Harp, Felicia Hart, Warren Hartshorn, Jay Hemphill, Derrick Johnson, William Johnson, William J. Johnson, Mona Lisa Larry, Gregory Lloyd, Frederick Mack, Ronald Manning, Mark McMillan, Regina Miller,

Ernest Montgomery, James Moore, Dennis Novak, Nina Paul, Nathan Rhames, José Rodriguez, William Scott, David Solomon, Lee Springer, Zachary Suddith, Arnold Thornton, Stanley Turner, Tony Turner, Thelma Wall, James Whitman, Earl Williams, Jerome Williams, and Oscar Willis, on behalf of themselves and all others similarly situated, by their undersigned attorneys, as and for their complaint, allege of their own knowledge as to themselves and their conduct and upon information and belief as to all other matters, as follows:

PRELIMINARY STATEMENT

1. For years, Defendants have victimized the homeless (including the named Plaintiffs herein) by tantalizing them with their alluringly named "Pathways to Employment" ("PTE") program, which promises job training and meaningful employment. In fact, the PTE program provides neither meaningful job training nor meaningful jobs. Rather, it is bait that lures the homeless to Defendants and then entices them to work for Defendants at illegal, subminimum wages. Through this program, Defendants have profited from the labor of hundreds of homeless men and women working hundreds, and sometimes thousands, of hours. This cheap, and largely defenseless, labor pool has enabled Defendants to land significant contracts because Defendants' use of a captive, underpaid homeless labor force enables them to underbid competitors who compensate their own employees at lawful rates. Defendants' illegal practices are long-standing and in willful violation of federal and state

minimum wage and maximum hour laws. By this action, the victims of Defendants' practices seek redress.

JURISDICTION AND VENUE

2. This action is brought pursuant to the Fair Labor Standards Act, 29 U.S.C. §201 et seq., and attendant regulations, 29 CFR §516 et seq.; the New York Minimum Wage Act, N.Y. Labor Law § 650 et seq., and attendant regulations, New York Codes, Rules and Regulations ("NYCRR") §142-3.1 et seq.; N.Y. Labor Law § 160 and attendant regulations, NYCRR § 142-3.1 et seq.; and the common law of the State of New York.

3. As to claims under the Fair Labor Standards Act, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331; 29 U.S.C. §216; and 28 U.S.C. §§2201 & 2202. As to claims under New York State law, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1367. This Court has jurisdiction over Defendants pursuant to New York Civil Practice Law and Rules § 301.

4. Venue is proper in this District under 28 U.S.C. §§1391 (b) & (c) because a substantial part of the acts or omissions giving rise to this action occurred in this District, and Defendants are subject to personal jurisdiction in this District.

THE PARTIES

A. Plaintiffs

5. Plaintiffs Keith Archie, Rudy Askew, Raymond Del Valle, Percival Dennis, Cynthia Dilbert, Joyce Dorsey, William

Farrior, Carlton Ford, Fitzroy Frederick, Miles Harp, Felicia Hart, Warren Hartshorn, Jay Hemphill, Derrick Johnson, William Johnson, William J. Johnson, Mona Lisa Larry, Gregory Lloyd, Frederick Mack, Ronald Manning, Mark McMillan, Regina Miller, Ernest Montgomery, James Moore, Dennis Novak, Nina Paul, Nathan Rhames, José Rodriguez, William Scott, David Solomon, Lee Springer, Zachary Suddith, Arnold Thornton, Stanley Turner, Tony Turner, Thelma Wall, James Whitman, Earl Williams, Jerome Williams, and Oscar Willis, are all homeless or formerly homeless residents of New York City who are or have been employed by Defendants in Defendants' PTE program. The terms "PTE participants," "PTE employees," or "PTE workers," as used in this Complaint, should be understood as including all of Plaintiffs herein.

6. At all relevant times Plaintiffs have been "employees" of Defendants within the meaning of 29 U.S.C. § 203(e) and N.Y. Labor Law § 651.5. Specifically, Plaintiffs have worked in contemplation of and in consideration of compensation, both in the form of weekly wages and in the form of eventual eligibility for a minimum wage job.

7. Nonetheless, Defendants have always compensated Plaintiffs at rates well below the minimum wage rate required by 29 U.S.C. § 206(a)(1) and N.Y. Labor Law § 652.1. Moreover, Defendants have never paid Plaintiffs overtime compensation of at least \$6.38 per hour for hours worked in excess of 40 per week, as required by 29 U.S.C. § 207(a)(1) and NYCRR § 142-3.2. Several Plaintiffs herein have complained to Defendants during

the course of their employment about Defendants' failure to compensate them at or above minimum wage and to pay overtime compensation.

8. The foregoing individual named Plaintiffs also represent other workers presently or formerly employed by Defendants, who were similarly paid at rates far below lawful minimum wage and denied proper compensation for overtime hours worked. The named Plaintiffs have given their written consents to be parties to this lawsuit. Those consents are annexed hereto as Exhibit A. Consent forms for additional victims of Defendants' illegal actions will be filed with this Court should such individuals seek to join this action.

B. Defendants

9. Defendant the Grand Central Partnership, Inc. ("GCP") is a business improvement district organized and existing under the New York State General Municipal Law and Not-for-Profit Corporation Law. Its principal place of business is in New York City.

10. Defendant the Grand Central Partnership Social Services Corporation ("GCPSSC") is a not-for-profit corporation organized and existing under the New York State Not-for-Profit Corporation Law. Its principal place of business is in New York City.

11. Defendant the 34th Street Partnership, Inc. ("34th SP") is a business improvement district organized and existing under the New York State General Municipal Law and Not-

for-Profit Corporation Law. Its principal place of business is in New York City.

12. Each Defendant is an enterprise engaged in commerce or in the production of goods for commerce. Each Defendant is an enterprise because each performs its related activities for a common business purpose. Each Defendant is engaged in commerce or in the production of goods for commerce, because, inter alia, each Defendant has employees that handle goods and materials that have been produced for and moved in commerce, and, upon information and belief, each Defendant's annual gross volume of business is at least \$500,000.

13. At all relevant times, each Defendant has been the "employer" of Plaintiffs within the meaning of 29 U.S.C. § 203(d) and N.Y. Labor Law § 651.6. Each Defendant, either directly or indirectly, has hired and fired Plaintiffs and other homeless employees; controlled Plaintiffs' work schedules and conditions of employment; determined the rate and method of their payment; and kept at least some records regarding their employment.

14. Upon information and belief, no Defendant has ever posted or kept posted a notice explaining the minimum wage and overtime pay rights provided by the Fair Labor Standards Act in any area where Plaintiffs are employed, in violation of 29 C.F.R. § 516.4.

CLASS ACTION ALLEGATIONS

15. The above-named Plaintiffs bring this action pursuant to 29 U.S.C. § 216(b) on behalf of themselves and all other persons similarly situated who have worked for Defendants for subminimum wage and/or without legally mandated overtime compensation.

16. The class represented by the named Plaintiffs warrants class action treatment for the following reasons: its members are sufficiently numerous as to make joinder impracticable; Defendants have acted or continue to act on grounds generally applicable to each member of the class, thus making final declaratory relief with respect to the class as a whole appropriate; Plaintiffs will fairly and adequately represent the class; and the claims of the named Plaintiffs are both common to and typical of the claims of members of the class.

STATEMENT OF FACTS

17. The GCP, a business improvement district, is an association of all the property owners located in the vicinity of Grand Central Station. The GCP assesses all its members a mandatory fee and uses the proceeds to improve the Grand Central district. It also derives revenue from public and private contracts for services. For example, since 1990 it has entered contracts with a number of Manhattan bank branches pursuant to which it provides the banks certain "outreach" workers, including some of the Plaintiffs herein, whose duty is to

discourage homeless people from entering or remaining in the banks' automatic teller machine vestibules.

18. The GCPSSC, a not-for-profit corporation, runs a "drop-in" center for the homeless at St. Agnes Church, for which it receives substantial funding from the City of New York. Upon information and belief, it also derives revenue from "outreach" contracts with Manhattan banks, as well as from service contracts with other entities. Like the GCP, the GCPSSC has used the labor of Plaintiffs to fulfill these contracts.

19. The 34th SP, another business improvement district, is an association of all the property owners located in the vicinity of Pennsylvania Station ("Penn Station"). The 34th SP assesses all its members a mandatory fee and uses the proceeds to improve the Penn Station district. The 34th SP has used the labor of Plaintiffs to provide "outreach" services both within and outside the Penn Station area.

20. The GCP, GCPSSC, and 34th SP are all closely affiliated. Defendants all share office space. Furthermore, most members of the GCPSSC's Board of Directors are also members of the GCP's Board of Directors, and the President of the GCP, Daniel A. Biederman, additionally serves both as President of the 34th SP and as Chairman of the GCPSSC's Board of Directors. Defendants also jointly operate a work program for homeless individuals. The GCP provides the workers' wages, the GCPSSC provides the administration, the 34th SP has in the past provided office space for program supervisors, and all three Defendants use and/or market the program participants' labor.

In particular, Defendants jointly field the homeless "outreach" teams they deploy in their own territories and under contract with public and private entities, predominantly by using the labor of work program participants.

21. The work program for the homeless that Defendants operate is known as "Pathways to Employment" ("PTE"). The structure of the PTE program has changed often since the program's inception, as Defendants have frequently altered the program's ground rules to suit their own purposes. For example, Defendants have recently changed the program's completion requirement from 700 hours of work over an indeterminate number of weeks to 40 hours a week over 25 weeks. Moreover, PTE participants' weekly wages have varied between \$40 and \$60 per week.

22. Despite such variations, each permutation of the PTE program has shared the same basic features. First, Defendants have never paid PTE employees a wage even approaching the \$4.25 per hour required by both the federal Fair Labor Standards Act and the New York Minimum Wage Act. Second, in violation of both federal and state law, Defendants have refused to pay PTE employees lawful overtime compensation, although such employees have often worked over 40 hours per week with Defendants' knowledge and acquiescence. Third, despite Defendants' recent representations that PTE is a "training program," Defendants have never meaningfully assessed new PTE employees as to their work experience, training needs, or rehabilitation needs, nor have Defendants provided PTE employees

either training, apart from minimal informal instruction within participants' first few days in the program, or meaningful on-the-job supervision. Fourth, to encourage PTE employees to work for such scant compensation, Defendants have represented to PTE workers that, if they successfully complete the program, they will be eligible for a minimum wage position in one of Defendants' enterprises or in an outside company. Indeed, Defendants have promised PTE employees that they would definitely receive a minimum wage position upon working the requisite amount of time at a subminimum wage rate. Thus, Plaintiffs have agreed to work for Defendants on the understanding that they were to receive a minimum wage job upon meeting Defendants' requirements, and not on the understanding that they were receiving valuable "training."

23. Despite their representations and promises, however, Defendants have rarely placed PTE employees who have accumulated the requisite hours into minimum wage positions, either in their own enterprises or in others. Rather, they have simply allowed most employees to continue working indefinitely at \$1.00 to \$1.50 per hour. Defendants' conduct, including their breaching their promises, has significantly damaged Plaintiffs.

a. Plaintiff Felicia Hart became homeless as a result of domestic violence, and thereafter came to Defendants' St. Agnes drop-in center for help. Although Ms. Hart had an extensive work record prior to arriving at St. Agnes, Defendants placed her in their PTE program at subminimum wage shortly after

she arrived at their drop-in center. Defendants promised her a minimum wage position within their organization, known as a "staff" position, if she would first work 700 hours for them at a rate of \$50 per week. She agreed to work for Defendants, and from September 1993 to April 1994 worked five days a week in administration and homeless "outreach" for at least 8 hours a day. She often worked 16 hours a day, and occasionally worked more than 16 hours a day. Nevertheless, Defendants paid her only \$50 per week. Furthermore, in violation of their promise, Defendants failed to promote Ms. Hart to a "staff" position once she had accumulated 700 hours at subminimum wage. Rather, they promoted her only after she had accumulated 1,600 such hours -- over twice as many hours as they had represented were required for promotion to a minimum wage job. Defendants only promoted Ms. Hart to a staff position in exchange for her testimony in support of Defendants' homeless outreach program at a community board meeting.

b. Plaintiff Tony Turner was employed in Defendants' PTE program in the late 1980s, in 1991, and from 1993 to November 1, 1994, as a homeless outreach worker and an administrative worker. Mr. Turner was never told that the PTE program was a training program, nor did he receive any meaningful training. Defendants required Mr. Turner to work 40 hours per week; in return, they paid him \$1 an hour at first and later a flat \$50 per week. Defendants represented to Mr. Turner that, if he completed 700 hours on a subminimum wage basis, he would have an opportunity to obtain a staff position at minimum

wage. While he accumulated more than 700 hours at subminimum wage, however, defendants never promoted him to a minimum wage "staff" position, but rather continued to pay him only \$50 per week for his work.

c. Plaintiff Raymond Del Valle was employed in Defendants' PTE program from April 1993 until August 1993. During that period he generally performed homeless outreach six days a week, 12 hours a day, for a total of over 1000 hours. He was paid \$1 for every hour up to 40 hours a week and \$1.50 for hours in excess of 40 a week. Mr. Del Valle left Defendants' employ in August 1993, and returned in late April or early May 1994. This time, Mr. Del Valle worked for Defendants for three and a half weeks, for at least 40 hours a week, again performing homeless outreach. He was paid only \$50 per week, regardless of how many hours he worked. In all, Mr. Del Valle worked approximately 1,400 hours for Defendants and was paid no more than \$1.50 per hour. He was never promoted to a minimum wage "staff" job.

d. Plaintiff Lee Springer had extensive work experience as a waiter, a chef, a handyman, and a building supervisor in a 44-unit building before arriving at Defendants' St. Agnes drop-in center in September 1993. Nonetheless, Defendants placed Mr. Springer in the PTE program and assigned him to work in the kitchen at St. Agnes. Between September 1993 and August 1994, Mr. Springer worked approximately 2,200 hours in the kitchen, including mandatory overtime hours exceeding 40 hours per week. He was paid \$50 per week; he received no

compensation for overtime. When he first started in the PTE program, he was told that after 700 hours of work at subminimum wage he would either receive a staff job in the kitchen at minimum wage or be placed in a kitchen job outside of St. Agnes, also at or above minimum wage. Mr. Springer worked in the PTE program only in contemplation of getting a staff job at St. Agnes or a placement in a kitchen job with an outside company. In violation of their promise, however, Defendants failed to promote Mr. Springer to a minimum wage "staff" position or to place him in an outside job once he had accumulated 700 hours at subminimum wage. Rather, Mr. Springer "made staff" in August 1994 only after working a total of approximately 2,200 hours on a subminimum wage basis.

e. Plaintiff William Johnson was employed by Defendants as an administrative worker during a two-week period in or about late April or early May, 1994. He was required to work uncompensated for several days and then worked for one day at a rate of \$1.25 per hour.

f. Plaintiff Mona Lisa Larry began her employment in Defendants' PTE program on April 21, 1994 and currently remains a PTE worker. She performs homeless outreach eight hours a day, five days a week, for which Defendants pay her \$50 per week. Although Defendants permit and sometimes encourage PTE employees to work overtime, Ms. Larry has not chosen to do so because Defendants have informed her that they would not pay her overtime compensation for such work.

g. Plaintiff Regina Miller began her employment in Defendants' PTE program on April 24, 1994 and currently remains a PTE worker, performing homeless outreach. Defendants placed her in the PTE program despite her fourteen-year work history. When she began the program, Defendants promised her a minimum wage "staff" position if she would first work 700 hours for them at a rate of \$50 per week. She agreed to work for Defendants, and thereafter began working eight hours a day, five days a week, for \$50 per week. Despite their promise, however, Defendants failed to promote Ms. Miller to a minimum wage position once she accumulated 700 hours. Although she has now accumulated over 1,100 hours as a PTE worker, Defendants have still failed to place her in a minimum wage job. Furthermore, far from receiving training in the PTE program, Ms. Miller actually had to enter a program not affiliated with Defendants in order to obtain the vocational instruction she desired. She was not referred to this program by Defendants.

h. Plaintiff James Moore worked for Defendants from April 1994 to late October/early November 1994 in an administrative position at the St. Agnes drop-in center. He worked at least 40 hours per week during that period and frequently worked overtime; however, he was paid only \$50 a week. His understanding was that he was working for less than minimum wage until a minimum-wage position with Defendants opened up, at which time he would be placed in that position. After Defendants learned of Plaintiffs' intention to seek redress through the instant action, Defendants brought Mr. Moore

and other PTE workers forms to sign indicating that PTE was a "training program." Mr. Moore refused to sign the form because he had received no training and because labelling PTE a training program was inconsistent with his understanding of the program when he began working for Defendants. Prior to his employment by Defendants, Mr. Moore had obtained a two-year degree in Advertising Design from the Center for the Media Arts in New York and was also certified as a Telecommunications Technician after completing a 12-week training course. Defendants made no assessment of Mr. Moore's need for job training before placing him in the PTE program.

i. Many other PTE employees in addition to those specifically named in subparagraphs 23(a) - (h), including all other named Plaintiffs, have also accumulated numerous hours at subminimum wage without being placed in minimum wage positions. For example, between July 1993 and May 1994, at least 33 PTE workers accumulated more than the 700 hours of work supposedly required at the time for program completion, without being placed in minimum wage jobs. A number of PTE employees have accumulated in excess of 2,000 hours in the program at subminimum wage.

24. When Defendants have promoted PTE employees to minimum wage positions, they have generally awarded such positions arbitrarily, or based on factors such as whether the employee had worked unpaid overtime, had aggressively recruited other homeless people to the PTE program, or had helped Defendants promote their homeless outreach program to potential

contractors. For example, as mentioned above, Plaintiff Felicia Hart was promoted to a "staff" position at the GCPSSC only because she agreed to perform a favor for Frank Schiazza, Defendants' officer in charge of the homeless outreach program. Specifically, Mr. Schiazza provided a staff position to Ms. Hart, who had worked over twice the 700 hours then required for PTE completion without being promoted to a minimum wage job, only in exchange for her agreement to defend Defendants' homeless outreach program at a community board meeting.

25. While Plaintiffs receive no meaningful training and wholly inadequate wages for their work, Defendants derive substantial economic benefits by employing Plaintiffs as PTE workers. First, the GCPSSC relies on PTE workers to staff its drop-in center at St. Agnes Church, for which it receives a yearly contract with the City of New York. Second, Defendants solicit and submit bids for contracts with private and public entities to provide, among other services, recycling and "outreach" services to homeless people. For example, Defendants have secured contracts with the National Railroad Passenger Corporation (also known as "Amtrak"), the Tudor City Residents' Association, the New York Community Trust Parks Project, Community Board 2, and many banks operating in Manhattan, among other groups, to provide homeless outreach services. Defendants have relied largely on PTE participants receiving subminimum wage to perform the services their contracts require them to provide.

26. Upon information and belief, Defendants are able to win these contracts in large part because using PTE workers minimizes their labor costs. Defendants' lower labor expenses either permit them to underbid other service providers who pay at least minimum wage to their outreach workers, or allow them to field a vastly greater number of outreach workers for the same cost, ostensibly providing a greater service. For example, as reported in the New York Observer's November 16, 1994 issue, Defendants have been able to secure outreach contracts with numerous banks largely because their services cost much less than those of security firms paying at least minimum wage. Similarly, Defendants were able to secure a contract to provide outreach services to homeless people on the Bowery in recent months by underbidding the Bowery Residents' Committee outreach program based on Defendants' lower labor costs.

27. If not for their subminimum wage PTE workers, Defendants would be unable to staff an outreach program even approaching the scope of the program they presently operate. At a meeting of the Social Services Committee of Community Board 2 on October 6, 1994, Defendants' "outreach administrator," Sam Miller, stated that PTE workers comprise more than two thirds of the total staff in Defendants' outreach program.

28. Employing PTE workers to staff their contracts at subminimum wage in some cases enables Defendants to derive significant revenues from such contracts. For example, upon information and belief, Defendants on at least one occasion contracted with the sponsors of a fashion show in Bryant Park to

provide PTE workers to clean up the park after the show. While, pursuant to the contract, the sponsors paid Defendants \$7.00 per hour per PTE worker, upon information and belief, Defendants paid the PTE workers only \$1.25 per hour.

29. The revenues Defendants derive from carrying out such contracts using cheap PTE labor permit them to compensate their management and officers at premium rates.

30. Despite Defendants' representations that they are merely providing social services, it is clear that their operation of the PTE program is motivated largely by business purposes. Defendants' use of subminimum wage PTE labor to carry out their commercial contracting activities serves the business purpose of enabling them to outbid other entities in order to win revenue-producing contracts. They also operate the PTE program to serve the more general commercial purpose of improving business for midtown merchants by removing homeless people from the street. As reported in Newsday's December 7, 1989 issue, the President of the GCP and of the 34th SP, Daniel A. Biederman, has explained, "[w]e have a deal with the homeless. We offer them jobs and money for program services if they stay off the streets in this vicinity." Similarly, on January 18, 1995, Mr. Biederman and other agents of the GCP testified before the City Council Finance Committee, in seeking City Council approval for expansion of the territory covered by the GCP, about the role Defendants' homeless outreach program plays in maintaining an agreeable commercial climate for businesses in midtown Manhattan.

31. Defendants' failure to pay Plaintiffs minimum wage and overtime compensation, in violation of both federal and state law, has been willful.

FIRST CLAIM FOR RELIEF

(for violations of the Fair Labor Standards Act,
29 U.S.C. § 201 et seq.)

32. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 31 as if fully set forth herein.

33. Plaintiffs have performed and continue to perform work for Defendants for which they are entitled to compensation at a rate not less than the lawful minimum wage of \$4.25 per hour. Furthermore, Plaintiffs have frequently worked more than 40 hours a week and are entitled to overtime compensation of at least \$6.38 per hour for each hour in excess of 40 per week. Defendants' failure to pay Plaintiffs at least minimum wage and to pay overtime compensation for hours worked beyond 40 hours a week violates the Fair Labor Standards Act, 29 U.S.C. §201 et seq., and attendant regulations at 29 C.F.R. §516 et seq.

SECOND CLAIM FOR RELIEF

(for violations of the New York State Minimum Wage Act,
N.Y. Labor Law § 650 et seq., and of N.Y. Labor Law § 160)

34. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 33 above as if fully set forth herein.

35. Plaintiffs have performed and continue to perform work for Defendants for which they are entitled to compensation at a rate not less than the lawful minimum wage of \$4.25 per hour. Furthermore, Plaintiffs have frequently worked more than 40 hours a week and are entitled to overtime compensation of at least \$6.38 per hour for each hour in excess of 40 per week. Defendants' failure to pay Plaintiffs at least minimum wage and to pay overtime compensation for hours worked beyond 40 hours a week violates N.Y. Labor Law § 650 et seq., N.Y. Labor Law § 160, and the regulations promulgated pursuant to those provisions, NYCRR §142-3.1 et seq.

THIRD CLAIM FOR RELIEF

(for breach of contract)

36. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 35 above as if fully set forth herein.

37. By their actions alleged herein, Defendants have breached their agreements with Plaintiffs to hire them or arrange for other companies to hire them at or above minimum wage after 700 hours of work for Defendants at subminimum wage, and have thereby damaged Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the class they represent pray for declaratory relief and damages as follows:

a. A declaratory judgment that the Defendants' practices alleged herein violate the Fair Labor Standards Act, 29 U.S.C. §201 et seq., and attendant regulations at 29 C.F.R. §516 et seq.; N.Y. Labor Law § 650 et seq., and attendant regulations at NYCRR §142-3.1 et seq.; N.Y. Labor Law § 160 and attendant regulations at NYCRR § 142-3.1 et seq.; and New York State common law principles;

b. Damages in the amount of the back wages to which Plaintiffs are lawfully entitled, being the difference between the subminimum wage hourly rate at which Defendants have compensated Plaintiffs, and \$4.25 per hour for every hour worked up to 40 hours a week, and \$6.38 per hour for every hour worked beyond 40 hours a week, as well as any other back wages to which Plaintiffs are lawfully entitled;

c. Liquidated damages in an amount equal to the back wages due plaintiffs, pursuant to 29 U.S.C. § 216(b), and/or equal to 25% of such back wages, pursuant to N.Y. Labor Law § 663.1;

d. Additional damages in an amount to be determined to compensate Plaintiffs for Defendants' breach of contract;

e. An order directing Defendants to pay Plaintiffs their reasonable attorneys' fees and all costs connected with this action; and

f. Such other and further relief as this Court may deem just and proper.

Dated: New York, New York
February 1, 1995

CLEARY, GOTTlieb, STEEN & HAMILTON

By _____

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