

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMELIO CRUZ and MIGUEL	:	
FIGUEROA individually and on behalf	:	
of all others similarly situated,	:	CIVIL ACTION
Plaintiffs,	:	
	:	NO:
v.	:	
	:	
ROYAL WATER DAMAGE	:	
RESTORATION, INC.,	:	
Defendant	:	

COLLECTIVE ACTION COMPLAINT

Plaintiffs Amelio Cruz and Miguel Figueroa (“Plaintiffs”), individually and on behalf of all other similarly situated current and former employees of Royal Water Damage Restoration, Inc., bring this action against Defendant for damages and other relief relating to violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”). Plaintiffs state the following as their claims against Defendant:

I.

OVERVIEW

1. Plaintiffs bring claims to recover unpaid overtime compensation under § 216(b) of the FLSA. They bring these claims as a putative collective action, individually, and on behalf of and all current or former Laborers employed by Defendant from three years prior to the time of filing to the present.

II.

THE PARTIES

Plaintiff

2. Plaintiff Amelio Cruz is a citizen of the United States domiciled in the City of Philadelphia, State of Pennsylvania. Plaintiff Cruz was employed by Defendant, specifically as a Laborer, from approximately August 2016 to February 2017.

3. Plaintiff Miguel Figueroa is a citizen of the United States domiciled in the City of Philadelphia, State of Pennsylvania. Plaintiff Figueroa was employed by Defendant, specifically as a Laborer, from approximately May 2016 to September 2017.

4. Pursuant to 29 U.S.C. § 216(b), Plaintiffs consent in writing to be a party to the FLSA claims asserted. Their consent forms are attached as Exhibits A and B hereto. As this case proceeds, it is likely other individuals will file consent forms and join as opt-in plaintiffs.

5. Plaintiffs and other Laborers are or were employees of Defendant within the meaning of the FLSA.

6. This action is brought as a putative collective action under the FLSA for failure to pay federally mandated overtime compensation.

7. Defendant has willfully engaged in a pattern, policy, and practice of unlawful conduct for the actions alleged in this Complaint, in violation of the federal rights of Plaintiffs and other similarly situated Laborers.

Defendant

8. Defendant Royal Water Damage Restoration, Inc. is a Pennsylvania for-profit corporation with its principal place of business located in Willow Grove, Pennsylvania. Defendant offers services of water damage repair, water removal, wet basement drying, mold remediation, and cleanup and repair caused by smoke, fire, floods and storms. Defendant offers services 24 hours a day, 7 days a week.

9. Defendant is or has been an enterprise engaged in commerce or in the production of goods or services for commerce within the meaning of 29 U.S.C. § 203(s)(1), and, upon information and belief, Defendant has had an annual gross volume of sales made or business done of not less than \$500,000 at all relevant times.

10. Plaintiffs, and all those similarly situated, are or were individual employees engaged in commerce or in the production of goods or services for commerce as required by 29 U.S.C. § 207.

11. At all relevevant times, Defendant is or was an employer of Plaintiffs and other similarly situated Laborers within the meaning of the FLSA, 29 U.S.C. § 203(d).

III.

JURISDICTION

12. This Court has subject matter jurisdiction under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331. Plaintiffs' claims arise under § 207(a) of the FLSA. Additionally, this Court has personal jurisdiction over Defendant, since Defendant conducts business in the Eastern District of Pennsylvania.

IV.

VENUE

13. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) as Defendant is domiciled within this District and under 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise the claims occurred in this District.

V.

FACTS

14. Plaintiffs re-alleges and incorporates by reference the above paragraphs as if fully set forth herein.

15. Plaintiffs and the Collective are or were employed by Defendant as Laborers who assisted with water damage repair, water removal, wet basement drying, mold remediation, and cleanup and repair of damage caused by smoke, fire, floods and storms.

16. Defendant has suffered and permitted Plaintiffs to regularly work more than forty (40) in certain workweeks.

17. For example, during the week of September 10, 2017, Plaintiff Figueroa worked 63.5 hours but was not paid an overtime premium.

18. Upon information and belief, Defendant has also suffered and permitted the members of the Collective to work regularly work more than forty (40) in certain workweeks.

19. Plaintiffs and the Collective were not compensated in accordance with the FLSA because they were not paid proper overtime wages for all hours worked in excess

of forty (40) hours per workweek. Specifically, Defendant paid Plaintiffs and other Laborers a weekly salary without consideration of overtime.

20. Defendant is aware, or should have been aware, that Plaintiffs and members of the Collective performed work that required them to work overtime since Defendant assigned work schedules.

21. During their employment with Defendant, Plaintiffs' hours varied from week to week but nearly always required Plaintiffs to work in excess of forty (40) hours in a workweek.

VI.

COLLECTIVE ACTION ALLEGATIONS

22. Plaintiffs re-allege and incorporate by reference all allegations in all preceding paragraphs.

23. The group of similarly situated employees sought to be certified under the FLSA, 29 U.S.C. § 216(b), as a collective action is defined as:

All current or former Laborers employed by Royal Water Damage Restoration, Inc. at any time since three (3) years prior to filing this Complaint.

24. The FLSA, 29 U.S.C. § 207, requires employers to pay non-exempt employees 1.5 times the regular rate of pay for all hours worked over forty (40) hours per workweek.

25. Defendant suffered and permitted Plaintiffs and the FLSA Collective to routinely work more than forty (40) hours in a workweek without proper overtime

compensation as required by the FLSA, 29 U.S.C. § 201 *et seq.* and its implementing regulations.

26. Defendant has violated, and is violating, the provisions of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), by not paying Laborers, like Plaintiffs and the FLSA Collective, overtime as required by law.

27. Defendant is aware that it is and was not compensating Plaintiffs and the Collective properly for overtime.

28. Defendant knowingly, willfully, or in reckless disregard of the law, maintained an illegal practice of failing to pay Plaintiffs and FLSA proper overtime compensation for all hours worked over forty (40).

29. Defendant's failure to comply with the FLSA overtime protections caused Plaintiffs and the FLSA Collective to suffer loss of wages and interest thereon.

30. Plaintiffs and the FLSA Collective are entitled to unpaid overtime, liquidated damages, and attorney's fees and costs under the FLSA.

RELIEF SOUGHT

WHEREFORE, Plaintiffs, individually and on behalf of the proposed FLSA Collective, pray for relief as follows:

1. Permitting this case to proceed as a collective action under § 216(b) of the FLSA and ordering notice to the putative plaintiffs at the earliest opportunity to ensure their claims are not lost to the FLSA statute of limitations;

2. Judgment that Plaintiffs and those similarly situated are entitled to the overtime protections under the FLSA;

3. Judgment against Defendant for violation of the overtime provisions of the FLSA;
4. Judgment that Defendant's violations of the FLSA were willful;
5. An award to Plaintiffs and those similarly situated in the amount of unpaid overtime wages and liquidated damages;
6. An award of any pre- and post-judgment interest;
7. An award of reasonable attorneys' fees and costs;
8. Leave to add additional plaintiffs and/or state law claims by motion, the filing of written consent forms, or any other method approved by the Court; and
9. Such further relief as may be necessary and appropriate.

Respectfully Submitted:

/s/ Kevin I. Lovitz

Kevin I. Lovitz

kevin@lovitzlaw.com

LOVITZ LAW FIRM

One Liberty Place

1650 Market Street

36th Floor

Philadelphia, Pennsylvania 19103

Telephone: (215) 735-1996

Facsimile: (267) 319-7943

Philip Bohrer (to be admitted *pro hac vice*)

phil@bohrerbrady.com

Scott E. Brady (to be admitted *pro hac vice*)

scott@bohrerbrady.com

BOHRER BRADY, LLC

8712 Jefferson Highway, Suite B

Baton Rouge, Louisiana 70809

Telephone: (225) 925-5297

Facsimile: (225) 231-7000

**ROYAL WATER DAMAGE RESTORATION, INC
PLAINTIFF CONSENT FORM**

1. I consent to make a claim under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* against my current/former employer, Royal Water Damage Restoration, Inc., and any other related entities or affiliates (“Defendant”), to recover overtime pay.
2. I designate Lovitz Law Firm and Bohrer Brady, LLC as my attorneys to pursue my claims in this matter.
3. During the past three years, there were occasions when I worked over 40 hours per week for Defendant as a laborer, and did not receive proper compensation for my overtime hours worked.
4. If this case does not proceed collectively, then I also consent to join any subsequent action to assert these claims against Defendant and any other related entities or affiliates.

Date: 10-31-17

Signature

Amelio Cruz Jr

Print Name

Amelio Cruz Jr

Information Below Will Be Redacted in Filings with the Court. Please Print or Type.

Address: _____

City, State Zip: _____

Best Phone Number(s): _____

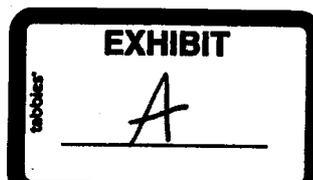
Email: _____

LOVITZ LAW FIRM

One Liberty Place, 1650 Market Street, 36th Floor, Philadelphia, Pennsylvania 19103

Fax: (267) 319-7943

Email: kevin@lovitzlaw.com



**ROYAL WATER DAMAGE RESTORATION, INC
PLAINTIFF CONSENT FORM**

1. I consent to make a claim under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. against my current/former employer, Royal Water Damage Restoration, Inc., and any other related entities or affiliates ("Defendant"), to recover overtime pay.
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Date: 10-30-2017

Miguel Figueroa III
Signature

Miguel Figueroa III
Print Name

Information Below Will Be Redacted in Filings with the Court. Please Print or Type.

Address: 14005 Erwin St

City, State Zip: Philadelphia, PA 19116

Best Phone Number(s): 267 596 1195 / 215 571 5132

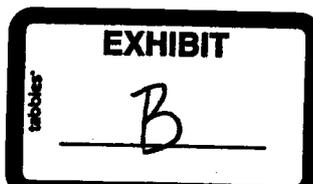
Email: litocrx1@gmail.com

LOVITZ LAW FIRM

One Liberty Place, 1650 Market Street, 36th Floor, Philadelphia, Pennsylvania 19103

Fax: (267) 319-7943

Email: kevin@lovitzlaw.com





The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

AMELIO CRUZ AND MIGUEL FIGUEROA, individually and on behalf of others similarly situated

(b) County of Residence of First Listed Plaintiff PHILADELPHIA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) KEVIN I. LOVITZ, ESQUIRE LOVITZ LAW FIRM, P.C. 1650 MARKET STREET, 36TH FL., PHILA., PA 19103

DEFENDANTS

ROYAL WATER DAMAGE RESTORATION, INC.

County of Residence of First Listed Defendant MONTGOMERY (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large grid of suit categories including Insurance, Personal Injury, Real Property, Contract, Labor, and Tax. Includes checkboxes for various codes like 110 Insurance, 310 Airplane, 710 Fair Labor Standards Act, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 201, et seq.

Brief description of cause: FAIR LABOR STANDARDS ACT - Claim for unpaid overtime wages

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 150,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

NOV 30 2017

DATE SIGNATURE OF ATTORNEY OF RECORD

11/29/17

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

MSG

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 5087 F. Street, Philadelphia PA 19124 and 14005 Erwin Street Philadelphia, PA 19116

Address of Defendant: 1923 Fairview Avenue Willow Grove, PA 19090

Place of Accident, Incident or Transaction: 1923 Fairview Avenue Willow Grove, PA 19090
(Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities? Yes No
RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
(Please specify) 29 U.S.C § 201, et seq.

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Kevin I. Lovitz, Esquire, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

DATE: 11/29/17

Attorney at Law

70184

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within cases not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/29/17

Attorney at Law

70184

Attorney I.D.#

NOV 30 2017



IN THE UNITED STATES DISTRICT COURT APPENDIX C
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

AMELIO CRUZ AND MIGUEL FIGUEROA, individually
and on behalf of others
similarly situated

v.

ROYAL WATER DAMAGE RESTORATION, INC.

CIVIL ACTION

17 5401

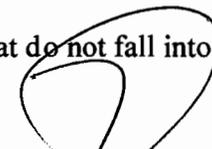
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255.
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits.
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2.
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos.
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management -- Cases that do not fall into any one of the other tracks.

11/29/17
Date



Attorney-at-law
Kevin I. Lovitz, Esquire

Attorney for

NOV 30 2017

AMELIO CRUZ AND

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Royal Water Damage Restoration Owes Unpaid Overtime, Former Laborers Claim](#)
