

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KEITH WOOD and GABRIEL AVALOS,)	
Individually and on Behalf of All Those)	
Similarly Situated,)	
)	Case No.: _____
Plaintiffs,)	
)	
v.)	
)	
BUCK VALLEY DRYWALL, INC., and RAJANI)	
KONERU, Jointly and Severally,)	
)	
Defendants.)	
)	

COLLECTIVE ACTION COMPLAINT
(Jury Trial Demanded)

Plaintiffs, Keith Wood and Gabriel Avalos (collectively, “Plaintiffs”), individually and on behalf of all others similarly situated, upon personal knowledge as to themselves and upon information and belief as to other matters, and allege as follows:

NATURE OF THE ACTION

1. Defendants run a construction and drywall business.

2. Plaintiffs worked for Buck Valley Drywall, Inc. as supervisors and constructions laborers.

3. Plaintiffs were paid straight-time for all hours worked, despite working in excess of 40 hours per week throughout their employment.

4. The exact number of employees who have suffered the same unpaid overtime wage injury, and have yet to receive redress is unknown at this time, but believed to be at least 20.

5. Plaintiffs bring this action on behalf of themselves and all other similarly situated employees of Defendants, to recover unpaid overtime premium pay, owed to them pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq, and supporting regulations.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337, 1343. In addition, the Court has jurisdiction over Plaintiffs' claims under the FLSA pursuant to 29 U.S.C. § 216(b).

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions leading to this claim occurred while

Plaintiffs performed work for Buck Valley Drywall, Inc., located at 5901 Peachtree Dunwoody Rd., Suite C-160, Atlanta, GA 30328, which is in Dekalb County.

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

THE PARTIES

Plaintiffs:

9. Plaintiff, Keith Wood, resides at 1265 Mimosa Drive, Macon, Georgia 31204.

10. Plaintiff, Gabriel Avalos, resides at 3035 Iron Gate Court, Lawrenceville, Georgia 30044.

Defendants:

11. Defendant Buck Valley Drywall, Inc., is an active Georgia corporation. Its principal place of business is 5901 Peachtree Dunwoody Rd, C-160, Atlanta, GA, 30328, which is in Dekalb County.

12. Upon information and belief, Defendant Rajani Koneru is the chief executive officer of Buck Valley Drywall, Inc. Koneru's address is unknown at this time.

13. Rajani Koneru (the "Individual Defendant") participated in the day-to-day operations of Buck Valley Drywall, Inc., and acted intentionally and maliciously.

Koneru is considered an “employer” pursuant to the FLSA, 29 U.S.C. § 203(d), and the regulations promulgated under 29 C.F.R. § 791.2, and are jointly and severally liable with Buck Valley Drywall, Inc. (the “Corporate Defendant”).

14. Upon information and belief, the Individual Defendant jointly set the unlawful payroll policies complained of in this complaint for the Corporate Defendant.

15. At all relevant times, Defendants have been employers of Plaintiffs, and/or joint employers within the meaning of the FLSA.

16. Upon information and belief, at all relevant times, Defendants have had gross revenues in excess of \$500,000, within the meaning of 29 U.S.C. § 203(s)(1)(A)(ii).

17. Additionally, upon information and belief, at all relevant times, Defendants have had employees working on goods that have been moved or produced for commerce, in that the Defendants operate a drywall business that has clients in multiple states and/or obtain parts for their drywall business from various parts of the United States, within the meaning of 29 U.S.C. § 203(s)(1)(A)(i).

STATEMENT OF FACTS

18. At all relevant times, Defendants have been in the drywall and construction industry, supplying professional drywall repair and remodeling contractor services

to clients.

19. Upon information and belief, the Individual Defendant handles payroll and record keeping for the Corporate Defendant, and are actively involved with the Corporate Defendant's day-to-day operations.

20. Plaintiff Wood was employed by Defendants as a construction laborer. Mr. Wood's job duties involved painting and putting up sheet rock. Mr. Wood was employed by Defendants from about May 20, 2017 to September 20, 2017 (14 weeks).

21. Mr. Wood was paid \$13 per hour, and worked 60 hours per week. This amounts to 40 regular hours, and 20 overtime hours per week. Mr. Wood was paid "straight-time" for all hours worked, and did not receive overtime payment.

22. Plaintiff Avalos was employed as a supervisor. Mr. Avalos' job duties included: keeping track of employee hours, supervising workers, ordering materials, managing inventory of inventory, and sending timesheets to the main office. Mr. Avalos was employed by Defendants from about April 7, 2017 to July 7, 2017 (12 weeks).

23. Mr. Avalos was paid \$19 per hour, and worked 58 hours per week. This amounts to 40 regular hours, and 18 overtime hours per week. Mr. Avalos was paid

“straight-time” for all hours worked, and did not receive overtime premium pay as required by the FLSA.

24. In addition, Mr. Avalos did not receive his last paycheck of \$300 from the company.

25. Plaintiffs were paid straight-time for all hours worked, despite working well in excess of 40 hours per week.

26. This failure to pay overtime wages to these hourly employees can only be considered a willful violation of the FLSA, within the meaning of 29 U.S.C. § 255(a).

STATEMENT OF CLAIM

27. Mr. Wood was paid \$13 per hour, and worked 60 hours per week. This amounts to 40 regular hours, and 20 overtime hours per week. However, Mr. Wood was only received paychecks of \$760 per week during each week of his employment. This demonstrates Mr. Wood was paid “straight-time” for all hours worked, and did not receive overtime premium pay as required by the FLSA.

28. Mr. Wood worked 60 hours per week, which includes 40 regular hours and 20 overtime hours. Mr. Wood was paid straight-time for all hours worked. His rate of pay was \$13 per hour, so his “half-rate” is \$6.50 per hour, for the purposes of

computing overtime.¹ 20 overtime hours multiplied by \$6.50 half-rate, equals \$130 unpaid overtime per week. Mr. Wood was employed 14 weeks by Defendants. 14 weeks multiplied by \$130 unpaid overtime per week, equals \$1,820 in unpaid overtime wages. If the Court grants liquidated damages in this case, pursuant to 29 U.S. Code § 216(b), then the total damages are \$1,820 plus \$1,820, which equals \$3,640.

29. Mr. Avalos worked 58 hours per week, which includes 40 regular hours and 18 overtime hours. Mr. Avalos was paid straight-time for all hours worked. His rate of pay was \$19 per hour, so his “half-rate” is \$9.50 per hour, for the purposes of computing overtime. 18 overtime hours multiplied by \$9.50 half-rate, equals \$171 unpaid overtime per week. Mr. Avalos was employed 12 weeks by Defendants. 12 weeks multiplied by \$171 unpaid overtime per week, equals \$2,052 in unpaid overtime wages. If the Court grants liquidated damages in this case, pursuant to 29 U.S. Code § 216(b), then the total damages are \$2,052 plus \$2,052, which equals \$4,104.

30. In addition, Mr. Avalos was not paid his last paycheck of \$300 so his total

¹ The half-rate is determined by dividing the regular rate of pay by 2.

damages are \$4,104 plus \$300, which equals \$4,404.

31. Therefore, since Plaintiff Wood is owed \$3,640, and Plaintiff Avalos is owed \$4,404, Plaintiffs are owed a total of \$8,044.

FLSA COLLECTIVE ACTION ALLEGATIONS

32. Pursuant to 29 U.S.C. §§ 207 & 216(b), Plaintiffs bring their First Cause of Action as a collective action under the FLSA on behalf of themselves and the following collective:

All persons employed by Defendants, at any time since February 11, 2015, and through the entry of judgment in this case (the “Collective Action Period”) who worked as construction laborers and hourly supervisors, and all other hourly employees (the “Collective Action Members”).

33. Plaintiffs were hourly workers, and therefore would not qualify for any exemption under the FLSA.

34. A collective action is appropriate in this circumstance because Plaintiffs and the Collective Action Members are similarly situated, in that they were all subjected to Defendants’ illegal policy of failing to pay overtime premiums for work performed in excess of 40 hours per week. As a result of this policy, Plaintiffs and the Collective Action Members did not receive the legally-required overtime

premium payments for all hours worked in excess of 40 hours per week.

35. The exact number of employees who have suffered the same unpaid overtime wage injury as Plaintiffs, and have yet to receive redress, is unknown at this time but believed to be at least 20.

FIRST CAUSE OF ACTION
FAIR LABOR STANDARDS ACT – UNPAID OVERTIME

36. Plaintiffs, on behalf of themselves the Collective Action Members, and the Class Members, repeat and reallege each and every allegation of the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

37. As a result of Defendants' failure to compensate its employees, including Plaintiffs and Collective Action Members, at a rate of not less than one and one-half times their regular rate of pay for work performed in excess of 40 hours per week, Defendants have violated and continue to violate the FLSA, 29 U.S.C. § 201 *et seq.*, including 29 U.S.C. § 207(a)(1) and 215(a), for which Plaintiffs and the Collective Action Members are entitled to relief pursuant to 29 U.S.C. 216(b).

38. Defendants have failed to pay overtime to these hourly employees, with no colorable argument as to why these workers are exempt. This constitutes a willful

violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

39. The failure to pay overtime has caused Plaintiffs to suffer lost wages and interest thereon. Plaintiffs and Collective Action Members are entitled to recover from Defendants her unpaid overtime premium compensation, liquidated damages, attorney's fees, and costs and disbursements of the action pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

Therefore, Plaintiffs respectfully requests that this Court grant the following relief:

- a. An order tolling the relevant statutes of limitations;
- b. An order declaring that Defendants violated the FLSA;
- c. An award of unpaid overtime wages due under the FLSA;
- d. An award of liquidated and/or punitive damages as a result of Defendant's willful failure to pay overtime wages
- e. An award of prejudgment and post-judgment interest;
- f. An award of costs and expenses of this action together with attorney's fees;
- g. Such other and further relief and this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated: February 11, 2018

Respectfully submitted,

s/ Brandon A. Thomas

BRANDON A. THOMAS

GA BAR NO.: 742344

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CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)
 Keith Wood and Gabriel Avalos, Individually and on Behalf of
 All Those Similarly Situated

DEFENDANT(S)
 Buck Valley Dry Wall, Inc., and Rajani Koneru, Jointly and Severally

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Bibb
 (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT DeKalb
 (IN U.S. PLAINTIFF CASES ONLY)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)
 The Law Offices of Brandon A. Thomas, PC
 1800 Peachtree Street, Suite 300
 Atlanta, GA 30309
 (404) 343-2441
 brandon@brandonthomaslaw.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION
 (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 2 U.S. GOVERNMENT DEFENDANT
- 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)
 (FOR DIVERSITY CASES ONLY)

- | | | | | |
|----------------------------|----------------------------|----------------------------|----------------------------|---------------------------------------------------------------|
| PLF | DEF | PLF | DEF | |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | CITIZEN OF THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | CITIZEN OF ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | 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. 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 District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq.
 Defendants have failed to pay overtime wages for all hours worked.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ <i>(Referral)</i>	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.


SIGNATURE OF ATTORNEY OF RECORD


DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Buck Valley Drywall Paid Straight Time Instead of Time-and-a-Half OT, Lawsuit Claims](#)
