

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

**BRIAN FERRY, individually and
on behalf of others similarly situated,**

Plaintiffs,

v.

**SGS CONTROL SERVICES, INC. and SGS
North America, Inc.**

Defendants.

COMPLAINT

INTRODUCTION

1. This is a Fair Labor Standards Act collective action brought by plaintiff employees for defendants' unlawful refusal to pay overtime at the premium rate of time and one half for all hours worked over forty in a work week.
2. Plaintiffs seek unpaid overtime wages, liquidated damages, costs and attorneys' fees as well as declaratory relief under the Fair Labor Standards Act (FLSA), 29 U.S.C. §201 *et seq.*

JURISDICTION

3. Jurisdiction is conferred upon this Court by 29 U.S.C. §216(b) of the Fair Labor Standards Act, by 28 U.S.C. §1331, this action arising under laws of the United States, and by 28 U.S.C. §1337, this action arising under Acts of Congress regulating commerce.
4. This Court has supplemental jurisdiction over any state claim raised by virtue of 28 U.S.C. §1367(a).

United States Courts
Southern District of Texas
FILED

JUN 08 2006

Michael N. Milby, Clerk of Court

VENUE

5. Venue is proper in this district pursuant to 28 U.S.C. §1391(b). The cause of action arose in this District. Plaintiff was employed in Freeport, Texas in Brazoria County.
6. Plaintiffs reside in this District. Defendant resides in this District.

PARTIES

A. Plaintiffs

7. The named plaintiff FERRY is an employee of defendants. A Consent to Sue for this named plaintiff is attached at the back of this complaint.
8. Plaintiff FERRY is a resident of Clute, Texas.
9. Plaintiff was engaged in commerce while working for defendants.
10. The terms "plaintiff" or "plaintiffs" as used in this complaint refers to the named plaintiff and all inspectors who are not paid time and one half overtime pay for hours over 40, pursuant to the collective action provision of 29 U.S.C. §216(b).
11. Upon information and belief, defendants regularly engage inspectors without payment of time and one half overtime premium pay.

B. Defendant

12. SGS CONTROL SERVICES, INC. and SGS NORTH AMERICA, INC. are corporations which includes the operation of inspection services throughout the United States and the world. Upon information and belief the defendant corporations had gross revenues in excess of \$500,000 for all relevant periods herein.
13. The defendant SGS CONTROL SERVICES, INC. s' offices are located at 20 Lafayette St., Carteret, NJ 07008.
14. The defendant SGS NORTH AMERICA, INC.'s offices are located at 1415 Garden

St., PO Box 252, Hoboken, NJ 07030.

15. Upon information and belief, defendants operate an enterprise engaged in commerce within the meaning of the FLSA.
16. For each of the 3 years preceding the filing of the initial complaint herein, defendants have employed 2 or more individuals "handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce."

FACTS

17. Plaintiff is employed by defendants.
18. Plaintiff FERRY began employment with SGS on or about September 17, 2002.
19. Plaintiff's job was to perform inspections for the shipping industry.
20. Plaintiff regularly worked more than 40 hours per week for defendant.
21. Defendants failed to pay plaintiffs overtime compensation at the rate of time and one-half the regular rate for all hours worked over 40 as required by the FLSA.
22. Defendants failed to pay overtime compensation to plaintiffs with the plaintiffs' regular wages or as soon thereafter as practical. Defendants failed to pay overtime compensation on a timely basis under the FLSA.
23. Defendants' failure to pay plaintiffs the proper wages as required by law was willful.
24. All actions and omissions described in this complaint were made by defendants directly or through their supervisory employees and agents.

CAUSE OF ACTION (OVERTIME)

25. Defendants failed to pay time and one half premium overtime wages to the plaintiffs on a timely basis and in an amount required by law, is in violation of the Fair Labor

Standards Act, 29 U.S.C. §203, 207 et seq. and its implementing regulations.


26. Defendant's failure to comply with the FLSA caused plaintiffs to suffer loss of wages and interest thereon.

WHEREFORE, plaintiffs request that this Court enter judgment or an order to plaintiffs:

- A. Declaring that the defendants violated the Fair Labor Standards Act;
- B. Declaring that the defendants' violations of the FLSA were willful;
- C. Awarding damages for their claims of unpaid wages as secured by the Fair Labor Standards Act as well as an equal amount in liquidated damages, plus liquidated damages for any overtime pay that was paid late;
- D. Awarding the plaintiffs' costs, including expert witness expenses, and reasonable attorneys' fees; and
- E. Granting such further relief as the Court finds just.

Dated: June 2, 2006

Respectfully Submitted,



Edward Tuddenham (TX Bar # 20282300)
272 W. 107th St. # 20A
New York, NY 10025

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ATTORNEYS FOR PLAINTIFF

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Brian Ferry

DEFENDANTS

SGS Control Services, Inc.
SGS North America, Inc.

County of Residence of First Listed Plaintiff Brazoria
(EXCEPT IN U.S. PLAINTIFF CASES)
County of Residence of First Listed Defendant Middlesex, New Jersey
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Dan Getman/Ed Tuddenham, Getman Law Office 9 Paradies Lane, New Paltz, New York 12561 (845)255-9370

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)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business in This State
2 2 Incorporated and Principal Place of Business in Another State
3 3 Foreign Nation
4 4
5 5
6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, 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
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
FLSA, 29 U.S.C. sec 203, 207 et seq. and its implementing regulations

Brief description of cause:

Defendants failed to pay time and one half premium overtime wages to the plaintiffs on a timely basis

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE

6.5.06

SIGNATURE OF ATTORNEY OF RECORD

[Handwritten signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE

FEE PAID