

BRODIE & RUBINSKY, P.C.
By: Joshua P. Rubinsky, Esquire
Attorney I.D. No. 46496
121 South Broad Street, Suite 800
Philadelphia, Pennsylvania 19107
telephone: (215) 925-1470
facsimile: (215) 925-3748
Additional Counsel Appear on Signature Page

TRACY BISHOP, <i>et al.</i> ,	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
Plaintiffs,	:	
	:	JANUARY TERM 2007
v.	:	NO. 01937
	:	
LEE’S INDUSTRIES, INC., <i>et al.</i> ,	:	CIVIL ACTION - CLASS ACTION
	:	
Defendants.	:	

**PLAINTIFFS’ PETITION FOR CONTEMPT AND SANCTIONS FOR DEFENDANTS’
FAILURE TO COMPLY WITH ORDER OF COURT**

Plaintiffs by and through their attorneys hereby file the following Petition for Sanctions and in support thereof submit the following facts and file the Memorandum of Law attached hereto as Exhibit “A”:

1. This action was initiated by complaint on January 17, 2007, wherein Plaintiffs alleged on behalf of themselves and all others similarly situated that, *inter alia*, Defendants failed to pay home health workers for time spent traveling between clients, and that they failed to pay an overtime premium for hours worked over forty (40) in a week in violation of the Pennsylvania Minimum Wage Act (“PMWA”) and the Wage Payment and Collection Law (“WPCL”). With permission of the Court, Plaintiffs filed a Third Amended Complaint on August 5, 2008, a copy of which is attached hereto as Exhibit “B”.

2. Defendants on August 29, 2009, filed an Answer to Plaintiffs Third Amended Complaint and New Matter, a copy of which is attached hereto as Exhibit "C".
3. On October 23, 2009, the Court certified the action as a class action. A copy of the Court's order is attached hereto as Exhibit "D".
4. Following the Court's certification of a class action, Plaintiffs and Defendants ("Parties") filed a Joint Motion for Approval of Notice on November 23, 2009. Defendants are or were the employer of the members of the class, and agreed to provide the last known address of each class member to Plaintiffs' counsel for mailing of the Notice. A copy of the Joint Motion is attached hereto as Exhibit "E".
5. On December 28, 2009, the Court issued an order approving the Notice and ordering that Defendants' provide mailing addresses to Plaintiffs' Counsel within thirty (30) days of the order, a copy of which order is attached hereto as Exhibit "F".
6. Prior to and after the deadline of January 27, 2010, counsel for Plaintiffs attempted to contact counsel for Defendants to ascertain when the addresses would be provided. See Affidavit of Amy E. Galer, Esquire, attached hereto as Exhibit "G".
7. Counsel for Plaintiffs also attempted to contact Defendants' counsel on January 27, 2010 by telephone and email. A copy of the email is attached hereto as Exhibit "H".
8. Counsel for Plaintiffs sent another email to counsel for Defendants on January 28, 2010, to which Defendants' counsel replied on January 30, 2010, stating that Defendants represented to her that they were in the process of gathering the necessary data. A copy of these emails is attached hereto as Exhibit "I".
9. Counsel for Plaintiffs sent an email to counsel for Defendants on February 8, 2010, to

confirm that the addresses had not been received. Counsel for Defendants replied by email that Defendants would not produce the addresses. A copy of these emails in attached hereto as Exhibit "J".

10. Defendants have not as of this date provided the names, addresses, and Social Security numbers of class members to counsel for Plaintiffs.

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

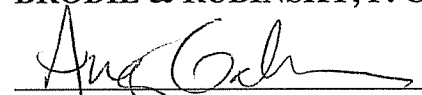
1. Find Defendants in contempt of the Court's order of December 28, 2009;
2. Order that Defendants fully comply with the Court's order of December 28, 2009;
3. Direct that Defendants pay Plaintiffs attorneys' fees and costs for the preparation and presentation of this petition;
4. Grant such other relief as the Court deems appropriate.

A proposed order is attached hereto as Exhibit K.

Respectfully submitted,

BRODIE & RUBINSKY, P. C.

By:



Joshua P. Rubinsky, Esquire
Attorney I. D. 46496
Laura J. Lifsey, Esquire
Attorney I. D. 45499
Amy E. Galer, Esquire
Attorney I.D. 209414
Brodie & Rubinsky, P.C.
121 South Broad Street, Suite 800
Philadelphia, Pennsylvania 19107
e-mail: rubinsky@brodierubinsky.com
Attorneys for Plaintiffs
phone: (215) 925-1470
facsimile: (215) 925-3748


Date: February 8, 2010

Co-Counsel

Bruce M. Ludwig, Esquire
Attorney I.D. No. 23251
Willig Williams & Davidson
1845 Walnut Street, 24th Floor
Philadelphia, Pennsylvania 19103
phone: (215) 656-3000
facsimile: (215) 561-5135
Attorneys for Plaintiffs

VERIFICATION

I, Amy Galer, Esquire, hereby verify that I am counsel for Plaintiffs in this civil action and have knowledge of the facts not of record set forth in the foregoing Petition for Contempt. I further verify that the facts not of record set forth in the foregoing Petition for Contempt are true and correct to the best of my knowledge, information and belief. I understand that any false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsifications to authorities.




Amy E. Galer

Date: February 8, 2010

CERTIFICATE OF SERVICE

I, Amy E. Galer, Esq., hereby certify that on this date I served a true and correct copy of the foregoing Petition for Contempt and Sanctions via email on the Defendants' attorney as follows:

Debra D. Rainey, Esquire
One Penn Center
1617 John F. Kennedy Blvd., Suite 1010
Philadelphia, PA 19103
debra@debraraineylaw.com

By: 

Amy E. Galer

Date: February 8, 2010