## IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11	And the second		
BUILDING MATERIALS HOLDING CORPORATION, et al.,	)	Case No. 09-12074	(KJC)		A COMMENTAL OF
	) )	Jointly Administer	red	2	
Debtors.	) )	Hearing Date: Nov.	19, 20	ယ် မြော်	gunder (i.e. n.) 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1

## DECLARATION OF \_Sergio Celaya .

IN SUPPORT OF PROOF OF CLAIM AND IN RESPONSE TO THE DEBTORS' FIRST OMNIBUS NON-SUBSTANTIVE OBJECTION

- I, <u>Sergio Celaya</u>, hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, as follows:
- 1. I am an adult resident of the State of

  Arizona , and I make this declaration based on my

  personal knowledge and in support of the Proof of Claim which I submitted in this matter.
- 2. In my proof of claim, I seek approximately

  \$ 65,124.00 for unpaid overtime and other wages which one
  or more of the Debtors owes to me as a result of my employment.
- 3. I understand that the Debtors have objected to my claim on the ground that the claim did not have sufficient supporting documentation or facts. Declaration of Paul S. Street, ¶ 8 and Exhibit D. This Declaration provides additional facts to supplement my proof of claim.

- 4. From approximately August 2004 to Nov. 2008,

  I was employed by Select Build Arizona as stem setter
  concrete dept. I believe that my employer has records of the dates of my employment; attached to this statement is paycheck stubs, proving that I did work there.
- 5. During my employment, it was the common practice of my employer to pay its workers, including me, on a piece rate system for each job. Under this system, we were not paid overtime for such work, and in many cases not paid even straight time for all of our work. In addition, we were not paid for breaks required by law.
- 6. Based on the length of my employment, and my calculation that I worked an average of 9 hours of unpaid overtime each week, I have determined that Select Build Arizona owes me approximately \$ 65,124.00 in overtime and other wages which were never paid.
- 7. I also worked with other employees who filed proofs of claim in this case for the same sort of unpaid wages, including: Guillermo Lopez Soto, Efrain Espinoza, Rodimiro Romero, Oscar Manzano, Salvador Perez, Gonzalo Saucedo, Roberto Saucedo Francisco Leon, Martin Leon, Eleazar Romero, Arturo Leon, Arturo Sanchez, Jesus M. Provencio. To the best of my knowledge, the company's practice toward my wages and hours was also applied to these individuals.

8. I live in <u>Arizona</u>, and am unable to travel to Delaware to participate in the hearing on the Debtors' objection. I respectfully ask the Court to deny the Debtors' objection at this point, and to permit my claim to be decided based on all the evidence, especially when the full records of my employment are in my employer's control.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November \_10\_\_\_, 2009.

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SERGIO CELAYA

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PLEASE DETACH THIS PORTION AND RETAIN FOR YOUR RECORDS

SelectBuild Arizona, LLC

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PLEASE DETACH THIS PORTION AND RETAIN FOR YOUR RECORDS

SelectBuild Arizona, LLC

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	3.00	22.8750		68.63					6-22-08
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PLEASE DETACH THIS PORTION AND RETAIN FOR YOUR RECORDS

SelectBuild Arizona, LLC

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510-0010

SELECTBUILD ARIZONA LLC PO BOX 70006 BOISE, ID 83707-0106

Period Beginning:

08/09/2008

Period Ending: Pay Date:

08/15/2008 08/22/2008

SERGIO CELAYA 4337 N 192 LN LICHFIELD AZ 85340

**Earnings Statement** 

Taxable Marital Status: Married Exemptions/Allowances:

Federal: AZ:

Tax is 19% of Federal

Social Security Number: XXX-XX-0308

Earnings	rate hours this period	year to date
Regular	15.2500 32.00 488.00	18,211.85
Overtime		1,573.24
Holiday/Float	- <u>12.1*2.5(</u> ): 5(2.1)	497.44
,	Gross Pay \$488.00	20,282.53
<b>Deductions</b>	Statutory	
	Social Security Tax -30.26	1,257.52
	Medicare Tax -7.08	294.10
	Federal Income Tax	246.59
	AZ State Income Tax	46 . 86
	Net Pay \$450.66	
	and the control of th	

Your federal taxable wages this period are \$488.00

215-0010

SELECTBUILD ARIZONA LLC PO BOX 70006 Select Build BOISE, ID 83707-0106

## **Earnings Statement**

Period Beginning: Period Ending:

08/15/2009 08/21/2009

Pay Date:

08/28/2009

SERGIO CELAYA 4337 N 192 LN LITCHFIELD AZ 85340

Taxable Marital Status: Married Exemptions/Allowances:

Federal:

AZ:

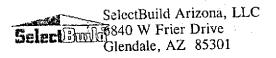
Tax is 11.5% of Federal

Social Security IV	umber: X	<b></b>	(X-03(	٥

Earnings	rate hours this period	year to date
Regular	14.0000 8.00 112.00	2,201.00
Overtime		199.50
	Gross Pay \$112.00	2,400,50
		(a) A final and desirable services of the control of the contro
Deductions	Statutory	
	Social Security Tax -6.94	148.283
	Medicare Tax -1.63	34.81
	Net Pay \$103.43	
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Your federal taxable wages this period are \$112.00

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Employee ID: 183669

Taxable Marital Status:

Married

Exemptions/Allowances:

Federal: 06 State: 10

**Earnings Statement** 

Period Ending:

Pay Date:

08/07/2009

Sergio Celaya 4337 N 192 Ln Litchfield, AZ 85340

Earnings	rate	hours	this period	year to date	Impo	rtant No	tes
Regular	14.000	40.00	560.00				
Overtime		5.50	115.50				
3   51 +	Gross Pay		675,50	1,462.50			
Deductions	Statutory					4.7 2	, 33
	Federal Wi	thholding Tax	ζ	11.95-			
	Social Secu	rity Tax	41.88-	90.68-	:	a Ayl.	
	Medicare Tax		79.79= ****	21.21			
	State Withl	olding Tax		1.38-			
	Other						
	Net Pay		\$ 523.83				