

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
BUILDING MATERIALS HOLDING)
CORPORATION, et al.,) Case No. 09-12074 (KJC)
Debtors.) Jointly Administered
Hearing Date: Nov. 19, 2009

DECLARATION OF ELIAS LEON DELAYO

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

I, ELIAS LEON DELAYO, 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
NEVADA, 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
\$ 20,736 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 06/99 to 05/07, I was employed by Servco Build Nevada as carpenter. I believe that my employer has records of the dates of my employment; attached to this statement is a **paystub**, 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 18 hours of unpaid overtime each week, I have determined that Servco Build Nevada owes me approximately \$ 20,736 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:

Jesus Guillermo Romero

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 NEVADA, 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 11, 2009.

Elias León

KBI Construction, LLC

HOURS			EARNINGS		OTHER PAY				90898	
REGULAR	OVERTIME	RATE	REGULAR	OVERTIME	BASIS	RATE	AMOUNT	DESCRIPTION	PAY PERIOD	
40.00			640.00						2-08 to 2-14-07	
									No. 90898	
									TOTAL PAY	
									640.00	
DEDUCTIONS THIS PERIOD										
FWH	3.31	MED	8.40	SOC	35.91	HEALTH	60.78			
									TOTAL DEDUCTIONS	
									108.40	
EMPLOYEE INFORMATION			YEAR-TO-DATE TOTALS							
ELIAS LEON-PELAYO			GROSS	3640.00	FICA	241.26	SDI	.00	NET PAY	
PE16691			FWH	6.62	SWH					