

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

FELICIA D. GRAY, individually and on	§	
behalf of similarly situated individuals,	§	
	§	
Plaintiff,	§	
	§	
-v-	§	Civil No. 3:12-cv-4176-M
	§	
SOLOMONEDWARDSGROUP, LLC	§	
a/k/a SOLOMON EDWARDS GROUP,	§	
LLC and PROMONTORY FINANCIAL	§	
GROUP, LLC,	§	
	§	
Defendants.	§	

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PLAINTIFF'S FIRST AMENDED COMPLAINT – COLLECTIVE ACTION

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TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES Felicia D. Gray, individually and on behalf of similarly situated individuals, and files this, her Plaintiff's First Amended Complaint – Collective Action against SolomonEdwardsGroup, LLC a/k/a Solomon Edwards Group ("SolomonEdwards") and Promontory Financial Group, LLC ("Promontory"). This amendment is made as a matter of course pursuant to Federal Rule of Civil Procedure 15(a)(1)(A).

I.  
SUMMARY

This is a simple failure to pay overtime case. Defendants failed to pay the overtime premium to hourly employees when they worked over forty hours in a workweek. Instead workers were paid "straight time" for all hours worked. Indeed,

paystubs clearly identify that the regular rate of pay was paid for all hours worked. Given the clarity of the records, the blatancy of the violation, and the identical basis for the violation, this matter is appropriate for class resolution.

Promontory is an independent financial review and consulting firm. SolomonEdwards is a staffing firm. Plaintiff has defined the class narrowly to be (1) workers assigned to a “File Review Team” affiliated with the “Foreclosure Review” project performed by Promontory for Bank of America, (2) who were paid by the hour, and (3) who were not paid overtime pay when working in excess of forty hours in a workweek (the “Class”).

For these reasons, Plaintiff seeks, on behalf of herself and those similarly situated, unpaid wages, liquidated damages, attorney fees, and all other relief permitted.

## II. JURISDICTION AND VENUE

1. This Court has original jurisdiction to hear this complaint and to adjudicate the claims stated herein under 28 U.S.C. § 1331, this action being brought under the Federal Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”). Venue is proper because a substantial part of the events or omissions giving rise to the claim occurred in this District, and Defendants are subject to personal jurisdiction in Texas.

### III. PARTIES

2. SolomonEdwards is a limited liability corporation. SolomonEdwards is an “employer” within the meaning of FLSA, 29 U.S.C. § 203(d), an “enterprise” within the meaning of FLSA, 29 U.S.C. § 203(r), and “engaged in commerce” within the meaning of FLSA, 29 U.S.C. § 203(s)(1).

3. Promontory is a limited liability corporation. Promontory is an “employer” within the meaning of FLSA, 29 U.S.C. § 203(d), an “enterprise” within the meaning of FLSA, 29 U.S.C. § 203(r), and “engaged in commerce” within the meaning of FLSA, 29 U.S.C. § 203(s)(1).

4. Plaintiff Felicia D. Gray is a resident of Texas and worked as a Senior Quality Analyst and Quality Analyst for the File Review Team on the Bank of America/Promontory Foreclosure Review Team. Ms. Gray was based out of the Charlotte, North Carolina location of the project. SolomonEdwards and Promontory have been “engaged in commerce” as required by the FLSA, 29 U.S.C. §§ 206-07. Ms. Gray’s consent form is attached as part of Exhibit 1.

5. Plaintiff brings this action on behalf of herself and other similarly situated employees pursuant to 29 U.S.C. § 216(b). Plaintiff and the similarly situated employees are individuals who were, or are, employed by Defendants on the File Review Team of the Promontory/Bank of America Foreclosure Review Project in the past three years. The putative class has been “engaged in commerce” as required by the FLSA, 29 U.S.C. §§ 206-07.

IV.  
CLASS ALLEGATIONS

6. Promontory entered into an agreement with Bank of America to review Bank of America's foreclosure files.

7. The agreement names the project "Foreclosure Review."

8. On information and belief, this agreement is dated on or about September 6, 2011.

9. Promontory engaged SolomonEdwards to assist in working on the Foreclosure Review project.

10. Defendants hired workers to perform the work required by the Foreclosure Review project.

11. The workers hired by Defendants include Plaintiff and the File Review Team workers at issue in this suit.

12. File Review Team workers were paid by the hour.

13. File Review Team workers were paid for the exact amount of hours they worked.

14. File Review Team workers were paid the same hourly rate for all hours worked. This includes the first forty hours in a workweek as well as hours over forty in a workweek.

15. Defendants did not pay File Review Team workers an additional one-half of the regular hourly rate for hours worked over forty in a workweek.

16. Defendants referred to File Review Team workers as employees.

17. Defendants treated File Review Team workers as employees for tax purposes. This included making wage deductions for federal income tax, Social Security tax, and Medicare tax.

18. SolomonEdwards issued weekly paystubs to File Review Team workers. These paystubs indicate the hours worked, the hourly rate of pay, and tax withholdings.

19. Workers assigned to a File Review Team affiliated with the Foreclosure Review project performed by Promontory for Bank of America were located in Charlotte, North Carolina; Dallas, Texas; and Atlanta, Georgia.

20. The File Review Team members paid by-the-hour are not exempt from the FLSA.

21. These practices violate the provisions of the federal Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* As a result of these unlawful practices, Plaintiff and the similarly situated employees suffered a loss of wages.

22. Defendants showed reckless disregard for the fact that their failure to pay their File Review Team workers appropriate overtime compensation was in violation of the law.

23. On information and belief, File Review Team workers have complained about not being paid the proper rate for overtime hours. On information and belief File Review Team workers were told that they could either work and not be paid the proper overtime rate or could quit.

24. All conditions precedent to the filing of this suit have been satisfied.

V.  
JURY DEMAND

25. Plaintiff, individually and on behalf of the putative class, exercises the right to a jury.

VI.  
PRAYER FOR RELIEF

WHEREFORE, Plaintiff and all employees similarly situated who join in this action demand:

1. Issuance of notice as soon as possible to all (1) workers assigned to a “File Review Team” affiliated with the “Foreclosure Review” project performed by Promontory for Bank of America, (2) who were paid by the hour, and (3) who were not paid overtime pay when working in excess of forty hours in a workweek during any portion of the three years immediately preceding the filing of this action. Generally, this notice should inform them that this action has been filed, describe the nature of the action, and explain their right to opt into this lawsuit;
2. Judgment against Defendants for an amount equal to Plaintiff’s and the class’ unpaid back wages at the applicable overtime rate for each hour worked over forty;
3. Judgment against Defendants that their violations of the FLSA were willful;
4. An equal amount to the wage damages as liquidated damages;

5. To the extent that liquidated damages are not awarded, an award of prejudgment interest;
6. All costs incurred and reasonable attorney's fees for prosecuting these claims;
7. Leave to add additional Plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court;
8. Leave to amend to add claims under applicable state laws; and
9. For such further relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Justin G. Manchester

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