

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHWESTERN DIVISION

JENNIFER HALL, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

PAUL WHITE and PHYLLIS THOMAS

Defendants.

Civil Action No: 3:07-cv-00484-CLS

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

**FIRST AMENDED CLASS ACTION COMPLAINT**

**I. NATURE OF ACTION**

1. This is a class action brought on behalf of all hourly-paid workers, legally authorized to be employed in the United States, who have been employed by Gold Kist, Inc. (“Gold Kist”) and/or Pilgrim’s Pride Corp. (“Pilgrim’s Pride”) at all of its locations, since March 18, 2003.

2. Ms. Hall, as representative of the legal workers (hereafter “the Class”), contends that Defendants Paul White (“White”), Operations Manager at the former Gold Kist and current Pilgrim’s Pride Russellville Facility (hereafter “the Russellville Facility”)<sup>1</sup>, and Phyllis Thomas, Complex Manager at the

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<sup>1</sup> In January 2007, Pilgrim’s Pride Corp. completed its acquisition of Gold Kist, Inc., including the Facility in Russellville, Alabama. Plaintiff will refer to both Gold Kist, Inc. and Pilgrim’s Pride Corp. collectively, as “the Company,” reflecting this acquisition. As stated above, “the Russellville Facility” refers to the chicken processing facility in Russellville, Alabama that was originally owned by Gold Kist,

Russellville Facility (“Thomas” and “Defendants” collectively) have conspired with their fellow Gold Kist and Pilgrim’s Pride facility human resources (“HR”) personnel, to depress the Class’ wages by knowingly employing large numbers of illegal immigrants, likely more than 500 in the last four years alone. (This is referred to as “the Illegal Immigrant Hiring Scheme” or “the Scheme”.)

3. The Scheme is conducted at the Russellville Facility, and all other Gold Kist and Pilgrim’s Pride facilities, including, but not limited to, the facilities located in Batesville, Arkansas; Lufkin, Texas; El Dorado, Arkansas; Nacogdoches, Texas; Mt. Pleasant, Texas; Farmerville, Louisiana; Clinton, Arkansas; and De Queen, Arkansas.<sup>2</sup>

4. The Illegal Immigrant Hiring Scheme violates the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 *et seq.* It is perpetrated every day, as an integral part of each facility’s regular manner of hiring, and will continue unabated, victimizing every legal worker, until halted by judicial intervention.

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but is now owned by Pilgrim’s Pride. Additionally, the allegations in this Complaint that refer to Gold Kist relate to the time period until January 2007, and the allegations in this Complaint that refer to Pilgrim’s Pride relate to the time period after January 2007.

<sup>2</sup> Based on the counsel’s investigation to date, these are the facilities that Plaintiff has located witnesses who can describe how the Scheme is carried out. As discussed below, based on information and belief that the Scheme is carried out in a substantially similar manner at each of these identified facilities, Plaintiff believes that the Scheme is also carried out at the other unnamed facilities as well.

## **II. PARTIES, JURISDICTION & VENUE**

5. Plaintiff Jennifer Hall is a citizen of Alabama. She was legally authorized to be employed in the U.S., and as an employee of the Russellville Facility, was paid an hourly wage rate which was depressed as a direct result of the Illegal Immigrant Hiring Scheme.

6. Defendant Paul White is a citizen of Alabama. He has conspired to operate the Russellville Facility through a pattern of racketeering activity, the Illegal Immigrant Hiring Scheme.

7. Defendant Phyllis Thomas is a citizen of Alabama. She has conspired to operate the Russellville Facility through a pattern of racketeering activity, the Illegal Immigrant Hiring Scheme.

8. This Court has subject matter jurisdiction of this case as a federal question, pursuant to 28 U.S.C. § 1331 and 18 U.S.C. § 1964(c).

9. Venue is proper in this District because the illegal acts giving rise to this case occurred in this district and Ms. Hall resides here.

## **III. CLASS ALLEGATIONS**

10. This action is brought and may be maintained as a class action pursuant to FED. R. CIV. P. 23(b)(3). Ms. Hall brings this action on behalf of the Russellville Facility Subclass, herself, and all other persons legally authorized to

be employed in the U.S., who have been employed at the Russellville Facility as hourly wage earners in the four years prior to the initial filing of this case in 2007.

11. Ms. Hall also brings this action under FED. R. CIV. P. 23(b)(3) on behalf of herself and all other persons legally authorized to be employed in the U.S., who have been employed at all other Gold Kist and Pilgrim's Pride facilities as hourly wage earners in the last four years (hereafter the "Class" or "Class members").

12. The Classes are so numerous that joinder of all Class members is impracticable. The actual number can be ascertained through discovery of Gold Kist's and Pilgrim's Pride's records, but is in the thousands.

13. Among the questions of fact and law that are common to the Class are:

- a. Whether Defendants have been and are currently engaged in the Illegal Immigrant Hiring Scheme in order to depress wages of the Classes;
- b. Whether Defendant White and Defendant Thomas conspired with each other to carry out the Illegal Immigrant Hiring Scheme at the Russellville Facility;

- c. Whether Defendant White and Defendant Thomas were part of a larger conspiracy to execute the Scheme at other Gold Kist/Pilgrim's Pride facilities throughout the nation;
- d. To what extent the Illegal Immigrant Hiring Scheme has caused Class members' wages to be depressed at the Russellville Facility;
- e. To what extent the Illegal Immigrant Hiring Scheme has caused Class members' wages to be depressed at all Gold Kist/Pilgrim's Pride facilities;
- f. Whether the Illegal Immigrant Hiring Scheme violates the Immigration and Nationality Act and RICO.

14. Ms. Hall's claim is typical of those of the members of the Class inasmuch as her damages were directly and proximately caused by the Illegal Immigrant Hiring Scheme. Ms. Hall seeks no relief that is antagonistic or adverse to other Class members.

15. Ms. Hall is committed to the vigorous prosecution of this action and has retained counsel who are competent in the prosecution of RICO cases generally, and this legal theory in particular. Accordingly, she and her counsel will fairly and adequately protect and represent the interests of the Class.

16. Questions of law or fact that are common to the members of the Class are substantially similar and predominate over any questions affecting only individual Class members, and a class action is the only appropriate method for the fair and efficient adjudication of this controversy for the following reasons, among others:

- a. The individual amounts of damages involved, while not insubstantial, are generally not large enough to justify individual actions;
- b. The costs of individual actions would unreasonably consume the amounts that would be recovered;
- c. Individual actions would unduly burden the judicial system; and
- d. Individual actions brought by Class members would create a risk of inconsistent results and would be unnecessarily duplicative of this litigation.

17. Ms. Hall anticipates no difficulty in the management of this action because the evidence proving the Illegal Immigrant Hiring Scheme is ascertainable through discovery, the identities of the members of the Classes are known to Defendants, Gold Kist, and Pilgrim's Pride. Damages can be calculated through expert testimony.

**IV. THE ILLEGAL IMMIGRANT HIRING SCHEME IS CARRIED OUT AT THE RUSSELLVILLE FACILITY TO ENSURE THAT MOST HOURLY WORKERS ARE UNAUTHORIZED FOR EMPLOYMENT AND THAT WAGES ARE DEPRESSED**

18. The Russellville Facility saves Gold Kist and Pilgrim's Pride millions of dollars per year in labor costs through the Scheme. This is so because illegal immigrants will work for extremely low wages and otherwise follow the wishes of management, particularly in opposing unionization. Such hiring practices are in direct violation of the Immigration and Nationality Act and RICO, which makes the employment of illegal immigrants a predicate offense. Thus, if White and Thomas were not conspiring to hire large numbers of illegal immigrants at the Russellville Facility, it would have to pay the Plaintiff Class significantly higher wages.

19. Ms. Hall believes that Defendants have approved the following hiring criteria at the Russellville Facility, which subvert the law against hiring illegal immigrants and effectively turns a blind eye to factors which any reasonable employer would know indicate job applicants are unauthorized for employment in the U.S.: 1) hiring workers who cannot speak English while claiming to be U.S. Citizens or Lawful Permanent Residents; 2) hiring workers who are recent arrivals to the U.S. and claim to be U.S. Citizens or Lawful Permanent Residents; 3) hiring workers who present authorization documents which are invalid on their face because the pictures are of a different person, are upside down, are on poor quality

paper, etc.; 4) hiring workers who are personally known to the Facility's hiring staff to be in the U.S. illegally and are using false documents; 5) hiring workers who have previously been employed at the Facility under different identities. A majority of the Russellville Facility's hourly workforce falls into one or more of these categories.

20. Additionally, the Russellville Facility is often informed that large numbers of its workers are using false social security numbers by the Social Security Administration. Most of these workers then simply assume new identities and continue to work at the Facility.

21. Further, White and Thomas have directed other HR personnel at the Russellville Facility to personally recruit illegal aliens in Boaz and Guntersville, Alabama.

22. White and Thomas then direct their staff to arrange for free housing for the illegal immigrant workers at local motels and trailer parks. They have also directed their staff to provide transportation for illegal immigrant workers between their homes and work.

23. These Hiring Criteria violate the Immigration and Nationality Act, 8 U.S.C. § 1324(a)(1)(B)(3)(A) which states, in relevant part:

Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens... shall be fined

under Title 18, or imprisoned for not more than 5 years, or both.

24. White and Thomas, as well as other unnamed co-conspirators in the HR department at the Russellville Facility, have conspired to violate this provision of the Act by agreeing to employ more than 10 undocumented, illegal aliens in each of the last four years, knowing each was smuggled into the country and/or harbored once they arrived here.

25. White and Thomas, as well as other unnamed co-conspirators in the HR department at the Russellville Facility, have also conspired to violate 8 U.S.C. § 1324(a)(1)(A)(iii) of the Immigration and Nationality Act. Knowingly employing large numbers of illegal immigrants violates 8 U.S.C. § 1324(a)(1)(A)(iii), which makes it a federal crime for anyone who “knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation.” Employing illegal immigrants constitutes “harboring.” Additionally, providing housing to illegal aliens constitutes “harboring,” which the Defendants and the other unnamed co-conspirators agreed to do.

26. These provisions of § 274 of the Immigration and Nationality Act, which the Defendants conspired to violate, are RICO predicate offenses. 18 U.S.C. § 1961(1)(F).

**A. White Has Personally Approved The Scheme at the Russellville Facility As Part of the Conspiracy; His Co-Conspirators Implement It There**

27. Paul White is Operations Manager of the Russellville Facility. As Operations Manager, he personally has approved the hiring policies identified above. Additionally, he works at the Russellville Facility on a daily basis and observes the largely illiterate, Spanish-speaking, illegal workforce. He knows most of these people are not U.S. citizens or lawful permanent residents, i.e., they are ineligible for employment, and have frequently used different names to obtain employment. He knows that his HR staff, as well as other HR staffs at other facilities, are committing a massive immigration law conspiracy in order to maintain this workforce.

**B. Thomas Has Personally Instructed Her Staff (Unnamed Co-Conspirators) On How To Implement The Scheme**

28. Phyllis Thomas is the Complex Manager at the Russellville Facility. She has personally instructed her staff on how to implement the hiring policies approved by Defendant Paul White, identified above. For example, she has personally instructed her staff to rehire workers at the Russellville Facility even

though she had knowledge that these workers were previously hired to work at the Russellville Facility under different identities. She also reprimanded her staff against “looking at the papers too closely” when she believed too few illegal immigrants were being hired. She knows that her HR staff, as well as their counterparts at other facilities, are committing a massive immigration law conspiracy in order to maintain a workforce comprised of illegal aliens.

**C. White and Thomas Have Conspired With Each Other To Carry Out the Scheme**

29. White and Thomas work closely with each other on all hiring matters at the Russellville Facility. They are frequently present on the Russellville Facility floor observing the largely illegal workforce. One began working at the Russellville Facility shortly after the other. It was at that time that the Russellville Facility greatly increased its use of illegal alien labor.

30. Under the direction of White and Thomas, many others are also part of the conspiracy to implement, carry out, and maintain the Scheme at the Russellville Facility. Both White and Thomas have directed the Russellville Facility’s HR personnel to: 1) turn a blind eye to the complete lack of English literacy among workers claiming to be U.S. citizens or lawful permanent residents; 2) personally recruit illegal aliens; 3) use company funds to pay for the housing

and transportation of illegal aliens; and 4) threaten the illegal aliens with deportation or loss of employment if they support unionization.

**D. Gold Kist and Pilgrim's Pride Are the RICO Enterprises**

31. Gold Kist, Inc. is a corporation affecting interstate commerce. It is therefore a RICO enterprise, pursuant to 18 U.S.C. § 1961(4). The Gold Kist enterprise existed from the beginning of the class period until January 2007.

32. Pilgrim's Pride Corp. is a corporation affecting interstate commerce. It is therefore a RICO enterprise, pursuant to 18 U.S.C. § 1961(4). The Pilgrim's Pride Enterprise exists from January 2007 through the present.

**E. Defendants Have Violated 18 U.S.C. § 1962(d) and Will Continue To Do So Indefinitely**

33. The conspiracy between White and Thomas, and other HR members at the Russellville Facility, to perpetrate the Scheme, is a violation of 18 U.S.C. § 1962(d), an agreement among Defendants and their unnamed co-conspirators at the Russellville Facility to violate § 1962(c) by participating in the affairs of Gold Kist and Pilgrim's Pride (the enterprises) through a pattern of racketeering activity. The Scheme is ongoing, open-ended, and has been perpetrated continuously for the last four years. It will not stop without judicial intervention.

**F. Hall Is A Direct Victim of the Illegal Immigrant Hiring Scheme At The Russellville Facility**

34. The underlying predicate acts of the Illegal Immigrant Hiring Scheme, *i.e.* the hiring and harboring of illegal aliens, by itself, was a substantial factor in causing the depressed wages about which Hall and the Russellville Facility class members complain. No other party has been damaged by the Scheme.

35. Defendants are subject to joint and several liability for all of the damage caused by all the racketeering acts committed by any of their co-conspirators.

**V. THE CONSPIRACY AT THE RUSSELLVILLE FACILITY IS PART OF A LARGER, COMPANY-WIDE CONSPIRACY, WHICH EXISTS AT OTHER FACILITIES; THOMAS AND WHITE ARE PART OF THAT LARGER CONSPIRACY**

36. The Conspiracy to implement and carry-out the Scheme at the Russellville Facility is also part of a larger, Company-wide scheme, among HR managers at all Gold Kist/Pilgrim's Pride facilities, including, but not limited to, the facilities located in: Batesville, Arkansas; Lufkin, Texas; El Dorado, Arkansas; Nacogdoches, Texas; Mt. Pleasant, Texas; Farmerville, Louisiana; Clinton, Arkansas; and De Queen, Arkansas.

37. Defendants Thomas and White are part of this larger, company-wide conspiracy that takes place at other facilities. The HR staff at each facility carries

out the Scheme in substantially similar ways to ensure that each facility is staffed with a largely illegal alien workforce.

38. Like at the Russellville Facility, the underlying purpose behind the larger, Company-wide Scheme at each of the facilities, is to save Gold Kist and Pilgrim's Pride millions of dollars per year in labor costs. The hiring and harboring practices at other facilities, described below, are in direct violation of the Immigration and Nationality Act and RICO, which makes the employment and/or harboring of illegal immigrants a predicate offense. In other words, if Gold Kist and Pilgrim's Pride were not hiring large numbers of illegal immigrants at each of these facilities, these companies would have to pay the workers there significantly higher wages.

39. Additionally, each of these facilities is often informed that large numbers of its workers are using false social security numbers by the Social Security Administration. Most of these workers then simply assume new identities and continue to work at these facilities.

**A. The Scheme is Carried Out at the Batesville, Arkansas Facility**

40. The Illegal-Immigrant Hiring Scheme is carried out at the Company's facility in Batesville, Arkansas, under the direction of Larry Tieg, the head manager, with other unnamed co-conspirators in the HR department.

41. In addition to utilizing some or all of the hiring policies described above in ¶ 19, under the direction of Larry Tieg, the HR staff personally transports hundreds of illegal immigrants from Mexico and U.S. border towns to work at this facility in company vehicles.

42. This facility also directly employs a “coyote” in the HR department to further aid in carrying-out the Scheme.

43. The illegal aliens are then coached by employees in the HR department to claim high numbers of dependents on their tax forms to reduce tax withholding as much as possible.

44. Larry Tieg rents apartment to illegal aliens and/or helps them pay rent.

45. Once these illegal aliens are employed at this facility, management will “tip off” the illegal aliens prior to any government raid to ensure that these workers are not arrested.

**B. The Scheme is Carried Out at the Lufkin, Texas Facility**

46. The Illegal-Immigrant Hiring Scheme is carried out at the Company’s facility in Lufkin, Texas. In addition to utilizing some or all of the hiring policies described above in ¶ 19, under the direction of HR staff, the facility recruited and transported illegal aliens from Mexico and U.S. border towns to work at this facility.

47. A majority of these workers were recent arrivals to the U.S., could not speak English, and had no permanent address. They arrived at this facility with their clothes and personal items in plastic bags.

48. The illegal aliens are then coached by employees in the HR department to claim high numbers of dependents on their tax forms to reduce tax withholding as much as possible.

49. Once these illegal aliens are employed at this facility, management will “tip off” the illegal aliens prior to any government raid to ensure that these workers are not arrested.

**C. The Scheme is Carried Out at the El, Dorado, Arkansas Facility**

50. The Illegal-Immigrant Hiring Scheme is also carried out at the Company’s facility in El Dorado, Arkansas. In addition to utilizing some or all of the hiring policies described above in ¶ 19, under the direction of HR staff, this facility transported illegal aliens from the U.S.-Mexico border to work at this facility. Members of the HR staff at this facility used to work at the Mt. Pleasant, Texas facility.

51. The illegal aliens are then coached by employees in the HR department to claim high numbers of dependents on their tax forms in order to reduce tax withholding as much as possible.

**D. The Scheme is Carried Out at the Nacogdoches, Texas Facility**

52. The Illegal-Immigrant Hiring Scheme is also carried out at the Company's facility in Nacogdoches, Texas. In addition to utilizing some or all of the hiring policies described above in ¶ 19, HR employees recruited illegal aliens from Mexico and U.S. border towns to work at this facility.

53. HR staff also required illegal aliens to personally pay them a fee to work at this facility.

54. The illegal aliens are then coached by employees in the HR department to claim high numbers of dependents on their tax forms to reduce tax withholding as much as possible.

55. Once the illegal aliens are employed at this facility, management “tipped off” the illegal aliens prior to any government raid to ensure that these workers are not arrested.

56. Recently, in order to distance itself from their crimes, HR at this facility have utilized the services of temporary employment agencies as a front company. These temporary employment agencies hire the same illegal aliens to work at the facility who were previously employed directly by this facility.

**E. The Scheme is Carried Out at the Mt. Pleasant, Texas Facility**

57. The Illegal-Immigrant Hiring Scheme is also carried out at the Company' facility in Mt. Pleasant, Texas. In addition to utilizing some or all of

the hiring policies described above in ¶ 19, HR employees, such as Reyna Villarreal, worked directly with co-conspirators to provide illegal aliens with fraudulent identification documents to facilitate their employment at this facility.

58. Former employees of this facility, including Reyna Villarreal, who herself had worked at this facility in the HR department without valid work authorization, are currently under federal investigation for such activities.

**F. The Scheme Is Carried Out at the Farmerville, Louisiana Facility**

59. The Illegal-Immigrant Hiring Scheme is also carried out at the Company's facility in Farmerville, Louisiana, utilizing some or all of the hiring policies described above in ¶ 19.

60. The HR staff at this facility arranges for housing for the illegal aliens.

61. The illegal aliens are then coached by employees in the HR department to claim high numbers of dependents on their tax forms to reduce tax withholding as much as possible.

62. In order to distance itself from their crimes, HR at this facility have also utilized the services of a temporary employment agency as a front company. The temporary employment agency is used to hire illegal alien workers who then work at the facility.

**G. The Scheme Is Carried Out at the Clinton, Arkansas Facility**

63. The Illegal-Immigrant Hiring Scheme is also carried out at the Company's facility in Clinton, Arkansas, utilizing some or all of the hiring policies described above in ¶ 19.

64. Connie Kirkendahl, who works in the HR department at this facility, provides fake documents to illegal aliens so that they can work at the facility.

65. The illegal aliens are then coached by employees in the HR department to claim high numbers of dependents on their tax forms to reduce tax withholding as much as possible.

66. The HR department also assists illegal immigrant employees to find housing by steering them to landlords who they know will rent to illegal immigrants.

67. Once the illegal aliens are employed at this facility, management "tipped off" the illegal aliens prior to any government raid to ensure that these workers are not arrested.

**H. The Scheme Is Carried Out at the De Queen, Arkansas Facility**

68. The Illegal-Immigrant Hiring Scheme is also carried out at the Company's facility in De Queen, Arkansas, utilizing some or all of the hiring policies described above in ¶ 19.

69. HR staff at this facility arrange for housing for the illegal aliens.

70. Once the illegal aliens are employed at this facility, management “tipped off” the illegal aliens prior to any government raid to ensure that these workers are not arrested.

**VI. THE SCHEME AT EACH OF THESE FACILITIES VIOLATES THE IMMIGRATION AND NATIONALITY ACT**

71. As described above, the Scheme at each of these facilities violates 8 U.S.C. § 1324(a)(3)(A), the hiring and harboring provisions of the Immigration and Nationality Act.

72. The HR staff at these facilities have conspired to violate these statutes. The conspiracy to perpetrate the Scheme is a violation of 18 U.S.C. § 1962(d), an agreement among the Defendants and their named and unnamed co-conspirators in the HR departments of Gold Kist and Pilgrim’s Pride’s facilities, to violate § 1962(c), by participating in the affairs of Gold Kist and Pilgrim’s Pride (the enterprises)<sup>3</sup> through a pattern of racketeering activity. The larger, Company-wide Scheme is ongoing, open-ended, and has been perpetrated continuously for the last four years. It will not stop without judicial intervention.

**VII. THE LEGALLY AUTHORIZED HOURLY-PAID EMPLOYEES ARE THE DIRECT VICTIMS OF THE SCHEME**

73. The underlying predicate acts of the Illegal Immigrant Hiring Scheme at each of the facilities, the hiring and harboring of illegal aliens, by itself, is a

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<sup>3</sup> As described above, Gold Kist, Inc. and Pilgrim’s Pride Co. are the RICO enterprises.

substantial factor in causing the depressed wages about which the legally authorized hourly workers at the facilities, the Class, complain. No other party has been damaged by the Scheme.

### **VIII. PRAYER FOR RELIEF**

74. Hall requests her appointment as Class representative and demands judgment and other relief, as follows:

75. Certification of the Class pursuant to Fed. R. Civ. P. 23(b)(3); and appointment of Howard W. Foster, as lead counsel and Matthew A. Galin, Robert G. Methvin, Jr., J. Matthew Stephens, Jeremy Hutchinson, Jay Patterson, Jim Wyly, and Sean Rommel as additional class counsel.

76. Judgment in an amount equal to three times the damage caused to the Class by the Defendants' racketeering activity/the Illegal Immigrant Hiring Scheme, pursuant to 18 U.S.C. § 1964(c);

77. For appropriate attorney's fees, pursuant to 18 U.S.C. § 1964;

78. For the costs of this action;

79. For a jury trial;

80. For preliminary and permanent injunctions against the Defendants from perpetrating further racketeering activity;

81. For any other relief the Court deems just and proper.

**PLAINTIFFS DEMAND A TRIAL BY STRUCK JURY**

Dated: March 20, 2008

Respectfully submitted,

By: /s/ Howard W. Foster

Attorneys for Plaintiffs

Howard W. Foster  
Matthew A. Galin  
Johnson & Bell, Ltd.  
33 W, Monroe St.  
Suite 2700  
Chicago, IL 60603  
312-372-0770

Robert G. Methvin, Jr.  
J. Matthew Stephens  
McCallum, Methvin & Terrell, P.C.  
2201 Arlington Ave. S.  
Birmingham, AL 35205

Jeff Bowling  
John McReynolds  
Bedford Rogers & Bowling PC  
303 Jackson Ave. N.  
Russellville, AL 35653

Marshall Lawson  
Tompkins & McMaster, LLP  
1333 Main Street, Suite 225  
Columbia, SC 29201

Jeremy Y. Hutchinson (*pro hac vice* pending)  
Jack T. Patterson, II (*pro hac vice* pending)  
Patton Roberts PLLC  
111 Center Street, Suite 1315  
Little Rock, Arkansas 72201

James C. Wyly (*pro hac vice* pending)  
Sean F. Rommel (*pro hac vice* pending)  
Patton Roberts PLLC  
2900 St. Michael Drive  
Texarkana, Texas 75503

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a copy of the foregoing FIRST AMENDED COMPLAINT was served via electronic filing to all counsel of record on this 20<sup>th</sup> day of March, 2008.

/s/ Howard W. Foster