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Janitors file suit against area Target stores: Chain is accused of skirting overtime, minimum-wage laws

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San Antonio Target stores are the focus of a lawsuit filed Thursday by 12 janitors alleging widespread overtime and minimum wage violations.

Nine Target stores here and five stores in Austin, as well as Oklahoma-based Jim's Maintenance & Sons Inc., were named as defendants in the suit, which was filed in U.S. District Court in San Antonio.

The lawsuit claims Target and Jim's jointly employed the workers, who say they were required to work 55 to 70 hours a week, seven days a week, with only one day off every other week.

The plaintiffs said they received no overtime pay for those long hours, even though federal law requires employers to pay overtime wages at 1 1/2 times the regular rate of pay for any hours over 40 per week.

In addition, the suit alleges, the workers' semiweekly wage rates were so low that their pay fell short of the federally mandated minimum wage of \$5.15 an hour in many cases.

When asked about the suit, a Target spokeswoman sent this written reply: "Target has not yet been served with the lawsuit and therefore cannot provide comment on any specific allegations it may contain. However, we currently do not have a relationship with Jim's Maintenance & Sons Inc."

Jim's Maintenance's attorney Phil Hurtt said the workers signed independent contractor agreements with Jim's, and an Internal Revenue Service audit also determined the workers were independent contractors.

Hurtt said that because the workers were contractors, Jim's didn't have to withhold taxes or make workers' compensation contributions.

"Jim's Maintenance feels this is a bogus lawsuit because the Fair Labor Standards Act applies only to employees," Hurtt said.

All of the workers in the lawsuit worked overnight shifts. They performed routine cleaning and maintenance work in the stores such as mopping floors and cleaning bathrooms.

The lawsuit claims much of the abuse occurred in the past three years, but co-counsel for the plaintiffs Joseph P. Berra said some workers weren't getting paid fairly as far back as 2001.

"These are low-wage workers that are vulnerable and easily exploited," he said.

The plaintiffs, Berra said, were underpaid about \$220 a month, on average.

He wouldn't say if the 12 workers are undocumented immigrants, but he emphasized that American law says all workers, regardless of their legal status, should be paid fairly.

A number of lawsuits involving undocumented workers have been in the legal spotlight lately, including suits against Wal-Mart and Tyson Foods Inc.

It's common for employers in workers' rights cases to claim workers were employed by some other entity or that they were individual contractors, said Bill Beardall Jr., lead attorney for the 12 workers.

He said that because the plaintiffs were doing routine work daily and were an integral part of the company, they are considered employees of the company.

Beardall, who represents the Equal Justice Center in Austin, said lawyers there have won about \$500,000 in unpaid wages in similar cases.