

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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MARTIN J. WALSH, Secretary of Labor, )  
U.S. Department of Labor, )  
) )  
Plaintiff, )  
) )  
v. )  
) )  
SERENITYCARE LLC )  
d/b/a SERENITYCARE, and )  
KELLEY OLIVER-HOLLIS, an individual )  
) )  
Defendants. )

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Civil Action No. 2:22-cv-1028

**COMPLAINT**

Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor (the “Secretary”), brings this action to enjoin Serenitycare LLC d/b/a Serenitycare and Kelley Oliver-Hollis (collectively, “Defendants”) from violating the provisions of Sections 6, 7, 11(a), 11(c), 15(a)(2), 15(a)(3), 15(a)(5) of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (the “Act” or “FLSA”), and for a judgment against Defendants in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act and an equal amount due to the employees of Defendants in liquidated damages.

1. Jurisdiction is conferred upon this Court by Sections 16 and 17 of the FLSA, 29 U.S.C. §216(c), 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345. Venue is proper in the United States District Court for the Western District of Pennsylvania because a substantial part of the events or omissions giving rise to the claims herein occurred within this District.

2. Defendant Serenitycare LLC d/b/a Serenitycare (“Serenitycare”) is a corporation duly organized under the laws of the Commonwealth of Pennsylvania, having its registered

office at 8620 Frankstown Rd, Pittsburgh, PA 15235, within the jurisdiction of this Court. Serenitycare provides non-medical, assisted living services to patients.

3. Defendant Serenitycare owns and operates six (6) homes and one (1) training facility, providing direct care services to patients, including patients with mental disabilities. Direct care workers and direct care leads (together, “employees”) assist clients living in Defendants’ homes with activities of daily living such as cooking, bathing, feeding, taking patients to appointments, and taking patients to the training center for activities and development.

4. Defendant Kelley Oliver-Hollis and Richard Reid are owners of Serenitycare, each owning 50% of the business. Defendant Oliver-Hollis has directed employment practices and has directly or indirectly acted in the interest of Serenitycare in relation to its employees, including hiring and firing employees, supervising employees, and setting the hours and compensation of employees, and meets the definition of an employer under Section 3(d) of the Act, 29 U.S.C. §203(d).

5. Defendant Oliver-Hollis resides within the jurisdiction of this court in Allegheny County, and has been responsible for making, keeping, and preserving records of Serenitycare’s employees, including accurately recording regular work hours and pay separately from overtime work hours and pay.

6. Defendants’ business activities, as described herein, are and were related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of Section 3(r) of the Act.

7. Defendants have employed and are employing employees in and about their place of business in the activities of an enterprise engaged in commerce or in the production of goods

for commerce, including employees handling, selling, or otherwise working on products, goods or materials that have been moved in or produced for commerce, such as home appliances manufactured outside of Pennsylvania. The enterprise has had an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, the employees are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1)(A) of the Act.

8. Further, Defendants constitute an enterprise engaged in commerce pursuant to Section 3(s)(1)(B) of the Act, as they are engaged in the operation of an institution primarily engaged in the care of the mentally disabled, and the patients reside on the premises owned and operated by Defendants.

**Defendants' Willful Violations of the FLSA's Overtime, Minimum Wage, and Recordkeeping Provisions**

9. Defendants willfully violated the provisions of Sections 7 and 15(a)(2) of the Act by employing employees employed as direct care workers and direct care leads in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer than those prescribed in Section 7 of the Act without compensating the employees for their employment in excess of the prescribed hours at rates not less than one and one-half times the regular rates at which they were employed. Therefore, Defendants are liable for the payment of unpaid overtime compensation under Section 17 of the Act.

10. For example, during the time period from at least November 23, 2018 through at least December 4, 2021, Defendants failed to pay their workers the overtime premium of one and one-half times the regular rate even though the workers regularly worked more than forty (40) hours a week. Instead, Defendants paid their straight time for all hours worked, including hours over forty (40) in a workweek.

11. Defendants attempted to subvert the overtime provisions of the FLSA by misclassifying certain of their direct care workers and direct care leads as independent contractors, even though these workers were clearly employees of Defendants whose duties were no different than the workers Defendants classified as W-2 employees. In addition, Defendants misclassified certain employees as exempt from the FLSA's overtime provision, even though these employees did not qualify for any exemptions.

12. As a result of these misclassifications, Defendants paid these alleged independent contractors ("Misclassified Contractors") and alleged overtime-exempt employees ("Misclassified Exempts") straight time for all hours worked, even though they regularly worked more than 40 hours in a work week.

13. In addition, during the relevant time period, Defendants simply paid certain employees their straight time rates for hours worked over forty (40) in a workweek, in violation of the FLSA. In some cases, Defendants paid straight time rates for hours over 40 in cash.

14. Defendants knew or recklessly disregarded their obligation to pay their employees one and one-half their regular rates for hours worked in excess of forty per workweek. Defendants coerced several of their employees to become independent contractors. Defendants told several employees that Defendants cannot pay overtime and that those employees must work as independent contractors if they wished to work more than 40 hours in a workweek. Defendants also paid Misclassified Exempts straight time for all overtime hours worked, despite the fact that these Misclassified Exempts did not satisfy the requirements of any exemption. Defendants also attempted to hide their violations through their practice of paying certain employees in cash under the table for hours worked over forty (40) in a workweek.

15. Defendants willfully violated the provisions of Sections 6 and 15(a)(2) of the Act by employing employees employed as direct care workers and direct care leads in an enterprise engaged in commerce or in the production of goods for commerce at rates less than the applicable statutory minimum rate prescribed in Section 6 of the Act. Therefore, Defendants are liable for unpaid minimum wages under Section 17 of the Act.

16. For example, during the time period from at least November 23, 2018 through at least December 4, 2021, Defendants deducted advanced leave from some employees' final paychecks, resulting in minimum wage violations.

17. Defendants willfully violated the provisions of Sections 11(c) and 15(a)(5) of the Act in that Defendants failed to make, keep, and preserve adequate and accurate records of many of their employees and of the wages, hours, and other conditions of employment which they maintained as prescribed by the regulations issued and found at 29 C.F.R. Part 516. For example, Defendants failed to keep sign-in sheets for employees; instead, Defendants paid employees based on the number of hours the employees were scheduled to work. As a result, Defendants lack complete records of actual hours worked by employees. 29 C.F.R. § 516.2(a)(9).

**Defendants' Unlawful Retaliation Against Employees and Interference with the Department's Investigation**

18. After the Secretary, through the Wage and Hour Division, notified Defendants that they had violated the minimum wage, overtime, and recordkeeping provisions of the Act and owed employees back wages and liquidated damages, Defendants, directly and through their agents, violated the provisions of section 15(a)(3) and 11(a) of the FLSA, 29 U.S.C. §§ 211(a), 215(a)(3), by retaliating against employees and attempting to obstruct an ongoing investigation by the Secretary of Labor.

19. Specifically, Defendants asked certain Misclassified Contractors to write statements on Defendants' behalf, claiming that the employees were not coerced to become independent contractors, that Defendants had no intention of misclassifying any employee, and that workers simply chose to become independent contractors for their own financial gain.

20. In addition, Defendants retaliated against certain employees by urging them to "kick back" or disclaim back wages that may be owed to them. Specifically, Defendants told employees that a conscientious worker would not feel comfortable accepting any back wages that may be owed. Because Defendants employed those employees, these requests were inherently coercive.

21. As with any request or instruction that an employer gives to its employees, they contained an implicit threat that failure to do what the employer asked could adversely affect the employment relationship.

22. As a result of Defendants' actions, many located employees informed the Secretary that they wished to remain anonymous out of fear of retaliation or loss of employment.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendant:

1. For an injunction issued pursuant to Section 17 of the Act, permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants from violating the provisions of Section 211(a) and 15(a)(3) of the Act, 29 U.S.C. §§ 211(a), 215(a)(3), including by asking any employee to disclaim or otherwise reject any back wages or other damages that may be owed to them as a result of the Secretary's Fair Labor Standards Act investigation or this litigation; by requesting or causing any current employee due

back wages to “kick back” or return any such back wages or other damages, deducting any back wages or other damages due to employees from those employees’ current wages for hours worked; and from terminating or threatening to terminate any employee, or retaliating or discriminating against their employees in any other way, based upon Defendants’ belief that such employee has cooperated with the Department of Labor or has engaged in any other protected activity under the Fair Labor Standards Act;

2. For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act, 29 U.S.C. §§ 206, 207, 211(c), 215(a)(2), 215(a)(5);
3. For an injunction issued pursuant to Section 17 of the Act restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding the amount of unpaid minimum wages and overtime compensation found due defendants’ employees
4. For judgment pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c), finding Defendants liable for unpaid minimum wage and unpaid overtime compensation due to certain of Defendants’ current and former employees listed in the attached Schedule A for the period from at least November 23, 2018 through at least December 4, 2021, and for an equal amount due to certain of Defendants’ current and former employees in liquidated damages. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of

Defendants listed in the attached Schedule A for violations continuing after December 4, 2021, and may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint, who may be identified during this litigation and added to Schedule A;

5. For an order awarding punitive damages for Defendants' retaliation against certain current and former employees in violation of Section 15(a)(3) of the Act, 29 U.S.C. § 215(a)(3);
6. For an order issued pursuant to Section 17 of the Act, 29 U.S.C. § 217, requiring Defendants to notify all current and former employees who received back wages and liquidated damages that they have the right to receive and keep the back wages and liquidated damages due to them;
7. In the event liquidated damages are not awarded, for an Order awarding prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

Mailing Address:

**UNITED STATES DEPARTMENT OF LABOR**

U.S. Department of Labor  
Office of the Regional Solicitor  
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Arlington, VA 22202

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Wage and Hour Counsel



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Dated: July 15, 2022

/s/ Maria del Pilar Castillo  
Maria del Pilar Castillo  
Trial Attorney  
PA Bar No. 311251

/s/ Aditi Kumar  
Aditi Kumar  
Trial Attorney  
NY Bar No. 5771928  
*Pro Hac Vice* application to be filed

Attorneys for Plaintiff  
U.S. Department of Labor

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Martin J. Walsh, Secretary of Labor, U.S.Department of Labor

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) M. Del Pilar Castillo, Office of the Solicitor (Phone: 215-861-5186) 170 S. Independence Mall West, Suite, 630E, Philadelphia, PA 19107 Aditi Kumar, Office of the Solicitor (Phone: 202-693-9357) (Arlington, VA)

DEFENDANTS

Serenitycare LLC d/b/a Serenitycare, and Kelley Oliver-Hollis, an individual

County of Residence of First Listed Defendant Allegheny, PA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): The Fair Labor Standars Act of 1938, as amended 29 U.S.C. § 201, et seq. Brief description of cause: Complaint and Motion for TRO/Injunction to restrain Defendants from retaliation against employees

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD /s/ Aditi Kumar (Pro Hac to be filed); /s/ M. del Pilar Castillo, PA Bar No. 311251

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44AREVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number \_\_\_\_\_ . Short Caption \_\_\_\_\_
2.  This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS & CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

I. CIVIL CATEGORY (Select the applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: July 15, 2022

/s/ Aditi Kumar (Pro Hac to be filed);  
/s/ M. del Pilar Castillo, PA Bar No. 311251

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARTIN J. WALSH, Secretary of Labor, )  
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 SERENITYCARE LLC )  
 d/b/a SERENITYCARE, and )  
 KELLEY OLIVER-HOLLIS, an individual )  
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 Defendants. )

Civil Action No. 2:22-cv-1028

**Schedule A**

1	Abrams-White	Ashleigh
2	Anderson	Torrence
3	Barren	Danyelle
4	Barren	Dawn
5	Barren	Raquel
6	Battels	Tiajha
7	Bose	Anthony
8	Bose	Daniel F
9	Bose	Daniel A-Bose Consulting
10	Bowles	Kim
11	Brooks	Alegra
12	Calloway	Latosha
13	Carr	Randy
14	Chisholm	Yanya
15	Colbert	Tisha
16	Corbin	Kelle
17	Corbin	Kim
18	Cox	Robert
19	Cox	Rosalie
20	Davis	April
21	Douthett	Neshawn
22	Ebore	Wileka
23	Gaines	Eddie
24	Hall	Walter
25	Houck	Nakeshia
26	Jacobs	Brenda
27	Johnson	Ronald

28	Jones	Jamelle
29	Jones	Jashara
30	Lewis	Juanita
31	Lowry	Tiffany
32	Morton	Kimberly
33	Mowry	Shari
34	Nathan	Nicole
35	Oliver	Keithlynn
36	Reed,	Latoya
37	Rivera	Frincellar
38	Sayles	Taylor
39	Smith	Travion
40	Stinson	Courtney
41	Walker	Tarilee
42	Ward	Lawrence
43	White	De'Sharae
44	Wilkerson	Yahmir
45	Wilkerson-Chisholm	Jeffrey
46	Wilkerson-Chisholm	Twynique
47	Wood	Aziza