

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TAISHA SHAW, on behalf of herself and similarly situated employees,	:	
	:	
v.	:	
TABOR COMMUNITY PARTNERS,	:	2.19-cv-01620-HB
	:	
Plaintiff,	:	
	:	
Defendant	:	

FILED
JUL 11 2019
KATE BARKMAN, Clerk
By _____ Dep. Clerk

STIPULATION AND ORDER

NOW, this 9th day of June 2019, Taisha Shaw ("Shaw") and Defendant Tabor Community Partners ("Defendant") STIPULATE as follows:

1. The Fair Labor Standards Act ("FLSA") provides that "[a]n action . . . may be maintained against an employer. . . by any one or more employees for and in behalf of himself or themselves and other employees similarly situated." 29 U.S.C. § 216(b). The Supreme Court has recognized that the benefits of collective litigation "depend on employees receiving accurate and timely notice concerning the pendency of the collective action, so they can make informed decisions about whether to participate." *Hoffman-La Roche Inc. v. Sperling*, 493 U.S. 165, 170, 110 S. Ct. 482, 486 (1989).

2. The Third Circuit has endorsed a two-step approach for determining whether an FLSA case can proceed as a collective action. See *Halle v. West Penn Allegheny Health System Inc.*, 842 F.3d 215, 224-27 (3d Cir. 2016). This Court has summarized the two-step approach as follows:

At the first step, the court determines whether the plaintiff has made a preliminary showing that his or her claims are similar to the claims of the members of the putative class. The first step usually occurs early in the litigation to facilitate notice and discovery. At the second step, typically after the close of class-related discovery, the court reconsiders class certification in light of the more developed factual record.

Gordon v. Maxim Healthcare Services, Inc., 2014 U.S. Dist. LEXIS 172054, *2 (E.D. Pa. Dec. 11, 2014) (Bartle, J.) (internal citations omitted).

3. To avoid the expense associated with motion practice on the “first step” conditional certification, the Parties agree to “first step” conditional certification with respect to all individuals employed as Case Managers during any time since April 15, 2016. Notice will be issued to these individuals (other than Shaw and current Opt-Ins Tirra Aikens-Robinson, Charles Graham, Shaday Harris, Korrima Horton, Nathalie McCullough, Meagan Olmo, Tia Reaves, and Nicholas Sarro), who are referred to herein as “Putative Collective Members.” Those Putative Collective Members who join the action by the deadline described in paragraph 7 (plus the 8 current Opt-Ins listed in the previous sentence) are referred to herein as “Opt-Ins.” For discovery purposes only, the limitations period applicable to the FLSA claims of Shaw and any Opt-Ins will run backwards three years from the date on which his/her Consent to Join Form (attached) is filed with the Court. Defendant reserves the right to assert all available defenses, including any and all challenges to the applicable limitations period.

4. As for the “second step” of the two-step process referenced in paragraph 2, Defendant reserves the right to move to decertify the collective or otherwise argue that collective litigation is wholly or partially inappropriate, including because the Opt-Ins are not “similarly situated” with respect to the claims they assert.

5. Neither Shaw nor any Opt-In will pursue the asserted Pennsylvania Minimum Wage Act (“PMWA”) claim as a class action claim under Federal Rule of Civil Procedure 23. However, Shaw and the Opt-Ins will continue to assert individual PMWA claims in this action, and the limitations period applicable to such PMWA claims is tolled as of April 15, 2018.

6. Within 21 calendar days of the Court’s entry of this Order, Defendant’s Counsel will mail to all Putative Collective Members finalized copies of the attached “Notice of Collective Action Lawsuit” form, “Consent to Become Party Plaintiff” form (“Consent Form”), and a postage-paid return

envelope addressed to Plaintiff's Counsel (together the "Notice Package"). The outgoing Notice Packages will be mailed by Defendant's Counsel in an envelope bearing Plaintiff's Counsel's return address. Plaintiff's counsel will pay for any postage associated with the mailing of the Notice Packages. If any Notice Package is returned as undeliverable, Plaintiff's Counsel will make all reasonable efforts to update the address information and re-send the Notice Package.

7. In order to participate in this action, a Putative Collective Member must complete his/her Consent Form and return it in an envelope postmarked on or before the deadline indicated in the Notice Package, which will be set at 35 calendar days after the initial mailing date.

8. Within seven (7) days of the opt-in deadline described in paragraph 7, Plaintiffs' Counsel shall file all completed Consent Forms with the Court.

9 On or before the date falling 63 calendar days after the entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation

10. Discovery is **STAYED** pending the completion of the above-described notice and opt-in process.

11. The parties agree that this stipulation is entered into for reasons that are specific to this case, and that this stipulation should not be construed as an indication that conditional certification is appropriate in any other lawsuit.

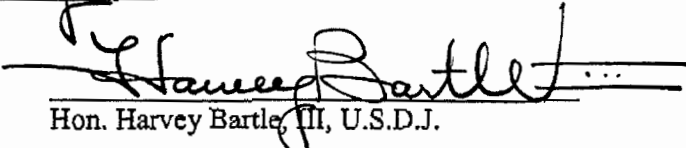
FOR PLAINTIFFS:

/s/ Peter Winebrake
Peter Winebrake, Esq.
R. Andrew Santillo, Esq.
Mark Gottesfeld, Esq.
Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025

FOR DEFENDANT:

/s/ Kenneth D. Kleinman
Kenneth D. Kleinman, Esq.
Brad Kushner, Esq.
Stevens & Lee, PC
1818 Market Street, 29th Floor
Philadelphia, PA 19103
(215) 751-1946

SO ORDERED this 11th day of July, 2019.


Hon. Harvey Bartle, III, U.S.D.J.

[insert mailing date]

NOTICE OF COLLECTIVE ACTION LAWSUIT

Shaw v. Tabor Community Partners, 2:19-cv-01620-HB
United States District Court, Eastern District of Pennsylvania

TO: [INSERT NAME]

PLEASE READ THIS NOTICE CAREFULLY

INTRODUCTION

This Notice informs you of a collective action lawsuit against Tabor Community Partners (“Tabor”) seeking unpaid overtime wages under federal and Pennsylvania law on behalf of salaried Case Managers. You may have a right to participate in the lawsuit.

DESCRIPTION OF THE LAWSUIT

In April 2019, a Case Manager named Taisha Shaw (“Plaintiff”) started this lawsuit against Tabor. The lawsuit is proceeding in the United States District Court in Philadelphia, PA (“the Federal Court”) and is assigned to Judge Harvey Bartle, III.

The lawsuit alleges that Tabor violated federal and state wage laws by failing to pay overtime compensation when Case Managers work over 40 hours in a week. The lawsuit seeks the recovery of unpaid overtime wages, liquidated damages, attorney’s fees, and costs.

Tabor denies the allegations, and maintains that under governing law, Case Managers are properly classified as “exempt” professionals who are not eligible for overtime pay.

The lawsuit is in its early stages. The Federal Court has not decided who will win.

Individuals employed by Tabor as Case Managers during any time after April 15, 2016 are eligible to join the lawsuit. According to Tabor’s records, you were employed as a Case Manager during this period.

HOW TO JOIN THE LAWSUIT

You can join the lawsuit by completing the enclosed “Consent to Become Party Plaintiff” form and returning it in the enclosed envelope to the following address:

WINEBRAKE & SANTILLO, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215) 884-2492
Email: pwinebrake@winebrakelaw.com

Your return envelope must be postmarked by **[insert date falling 35 days after mailing date]**. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you will be bound by the judgment of the Federal Court on all issues, including the reasonableness of any settlement. If Plaintiff wins, individuals who join the lawsuit may be eligible for a money payment. If Tabor wins, individuals who join the lawsuit will be entitled to nothing.

If you join the lawsuit, you may be required to participate in the "discovery" process by, for example, gathering and producing documents, answering some written questions under oath, and, possibly, sitting for a deposition. The law firm described below will represent you throughout the lawsuit.

RETALIATION PROHIBITED

If you join the lawsuit, federal law prohibits Tabor from retaliating against you as a result of your participation.

EFFECT OF NOT JOINING THE LAWSUIT

If you do not join the lawsuit, you will not be affected by any judgment or settlement resulting from the lawsuit, whether it is favorable or unfavorable.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025 (unless you retain your own lawyer who enters his or her appearance in the lawsuit on your behalf). The firm's website is www.winebrakelaw.com, and its phone number is (215) 884-2491.

You are not required to pay any fees to this law firm. The firm has taken this case on a "contingency" basis. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

Please call the above law firm if you have any questions or desire any additional information about the lawsuit.

THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE HARVEY BARTLE III. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.

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	:	2:19-cv-01620-HB
Plaintiff,	:	
v.	:	
	:	
TABOR COMMUNITY PARTNERS,	:	
	:	
Defendant	:	

CONSENT TO BECOME PARTY PLAINTIFF

I have read the accompanying form entitled "NOTICE OF COLLECTIVE ACTION LAWSUIT" and consent to become a party plaintiff in this action. I agree to be represented by Winebrake & Santillo, LLC (Dresher, PA). I understand that I will be bound by the judgment of the Court on all issues in this action, including the fairness of any settlement.

Signature _____
Date

Name (Please Print Neatly)

Address

City, State, Zip Code

Phone Number

Email Address

Return to by [insert] postmark deadline to:

Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215) 884-2492
Email: asantillo@winebrakelaw.com