

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

SAUL GUZMAN, on behalf of himself	:	
and others similarly situated,	:	
	:	3:20-cv-01877-JPW
Plaintiff,	:	
v.	:	
	:	
ABBEY ROAD CONTROL, INC.,	:	
Defendant	:	

STIPULATION AND ORDER

Saul Guzman (“Plaintiff”) and Abbey Road Control, Inc. (“Defendant”) hereby **STIPULATE** as follows:

1. The following Fair Labor Standards Act (“FLSA”) collective is conditionally certified pursuant to **29 U.S.C. § 216(b): All individuals employed by Defendant as flaggers within three years of the entry of this order.**¹ Individuals falling within this definition are referred to as “Putative Collective Members.”

2. Plaintiff will not pursue his Pennsylvania Minimum Wage Act (“PMWA”) claim as a class action claim under **Federal Rule of Civil Procedure 23**. However, Plaintiff and any Putative Collective Member who joins the FLSA collective will continue to assert a PMWA claim, and the limitations period applicable to such PMWA claim is tolled as of October 12, 2020.

3. In agreeing to conditional certification, Defendant does not waive any future

¹ Notwithstanding this collective definition, Plaintiff’s FLSA claim relates back to October 12, 2017.

arguments. For example, Defendant reserves its right to move at some later time to decertify the FLSA collective or to otherwise argue that collective litigation is wholly or partially inappropriate.

4. Within 14 calendar days of the Court's entry of this Order, Defendant's counsel will email to Plaintiff's counsel an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member.

5. Within 21 calendar days of the Court's entry of this Order, Plaintiff's counsel will mail to all Putative Collective Members finalized copies of the attached "Notice of Collective Action Lawsuit" form, the attached "Consent to Join" form, and a postage-paid return envelope bearing Plaintiff's counsel's address (collectively the "Notice Package"). Plaintiff's counsel will pay all postage and printing costs associated with the preparation and 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.²

6. In order to join the FLSA collective pursuant to **29 U.S.C. § 216(b)**, 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 45 calendar days after the initial mailing date. Plaintiff's counsel will file with the Court each completed Consent Form within 5 business days of receipt.

² In addition, on the date falling 35 calendar after the entry of this Order, Plaintiff's counsel may re-mail the Notice Package to any Putative Collective Members who have not returned a Consent to Join form.

7. Within 70 calendar days of the Court’s entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation.

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

9. Plaintiffs and their counsel will not affirmatively initiate any communications with Collective Members other than through the notice process described here. However, nothing prohibits Plaintiffs’ counsel from discussing the action with Collective Members who affirmatively contact Plaintiffs’ counsel with questions or requests for additional information.

10. Plaintiff’s “Motion for Conditional Certification of the FLSA Collective, Class Certification of the Rule 23 Class, and Appointment of Winebrake & Santillo, LLC to Serve as Class Counsel” (Doc. 19) is **DISMISSED AS MOOT**.

FOR PLAINTIFF:

/s/ Peter Winebrake
Winebrake & Santillo, LLC

June 29, 2021
Date

FOR DEFENDANT:

/s/ Samuel E. Cohen
Gross McGinley LLP

June 29, 2021
Date

SO ORDERED THIS 2nd DAY OF July, 2021.

s/ Jennifer P. Wilson
JENNIFER P. WILSON
United States District Court
Middle District of Pennsylvania

[insert mailing date]

NOTICE OF COLLECTIVE ACTION LAWSUIT

Guzman v. Abbey Road Control, Inc., 3:20-cv-01877-JPW
United States District Court, Middle District of Pennsylvania

TO: [INSERT NAME]

This Notice tells you about a lawsuit seeking unpaid wages allegedly owed to Flaggers employed by Abbey Road Control, Inc. (“the Company”) since [insert date falling three years prior to conditional certification order]. You have a right to participate in the lawsuit.

DESCRIPTION OF THE LAWSUIT

The lawsuit alleges that the Company violated federal and state overtime law. According to the lawsuit, certain time (including travel time) arising at the beginning and end of the claimed workday should have been included in calculating Flaggers’ work hours for overtime pay.

The Company denies liability and asserts that its pay practices are entirely legal and in accordance with federal and state law. According to the Company, Plaintiffs and all other employees have been fully compensated for all work hours.

The lawsuit is in the early stages. The Judge has not yet decided who will win.

HOW TO JOIN THE LAWSUIT

Whether or not to join the lawsuit is entirely up to you. If you wish to join, you must complete the enclosed “Consent to Join” form and return it (preferably in the enclosed envelope) to:

Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215) 844-2492
Email: pwinebrake@winebrakelaw.com

Your return envelope must be postmarked by **[insert 45 days after mailing date]**.

RETALIATION PROHIBITED

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

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you will be bound by the Judge’s rulings on all issues, including the reasonableness of any settlement. If the Court finds in favor of Plaintiffs, you will be eligible for

a money payment. If the Court finds in favor of the Company, you will receive nothing. By joining the lawsuit, you may be required to participate in more formal discovery or trial proceedings.

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 unless you decide to retain your own lawyer. The Winebrake & Santillo firm is located at 715 Twining Road, Suite 211, Dresher, PA 19025 and its phone number is (215) 884-2491. The firm's website is www.winebrakelaw.com

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 results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

Please call the Winebrake & Santillo firm at (215) 884-2491 if you have any questions or desire any additional information about the lawsuit.

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.

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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

_____	:	
SAUL GUZMAN, on behalf of himself and	:	
others similarly situated,	:	3:20-cv-01877-JPW
Plaintiff,	:	
v.	:	
	:	
ABBEY ROAD CONTROL, INC.,	:	
Defendant	:	
_____	:	

CONSENT TO BECOME PARTY PLAINTIFF

I consent to become a party plaintiff in the above-captioned action pursuant to **29 U.S.C. § 216(b)**. 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 a dismissal of the claims, or the fairness of any settlement should one be reached by the parties.

Signature

Date

Name (Please Print Neatly)

Address

City, State, Zip Code

Phone Number

Email Address

Return by [insert deadline] to:

WINEBRAKE & SANTILLO, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Fax: (215) 884-2492