

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

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ANDREW RICCI, on behalf of himself and		:	
others similarly situated,		:	
	Plaintiff,	:	No. 5:22-cv-00650
	v.	:	
		:	
NEWREZ LLC,		:	
	Defendant.	:	
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STIPULATION AND ORDER

NOW, this 5th day of August 2022, Andrew Ricci (“Plaintiff”) and NewRez LLC (“Defendant”)

STIPULATE as follows:

1. This action is conditionally certified, pursuant to 29 U.S.C. § 216(b), as a collective action on behalf of: **All non-exempt individuals employed by Defendant within the past three years (from the date of the Order below) who have been paid an hourly wage plus additional remuneration classified in Defendant’s payroll system as an “OTI Elig Bonus.”**¹ These individuals are referred to as “Collective Members.”

2. Defendant reserves its right to move to decertify the collective or otherwise argue that collective litigation is wholly or partially inappropriate.

3. Within 30 calendar days of the Court’s entry of this Order, Defendant’s counsel will email to Plaintiff’s counsel and Settlement Services, Inc. (“SSI”)² an Excel spreadsheet containing the name and last known mailing address of each Collective Member.³ This spreadsheet will be

¹ Notwithstanding this collective definition, Plaintiff’s FLSA claim relates back to February 21, 2019.

² SSI is a respected third-party claims administrator and has substantial experience administering Court-approved notice programs in class and collective actions. *See* <https://www.settlementservicesinc.com/>

³ In addition, Defendant’s counsel will email to SSI (but not to Plaintiff’s counsel) an Excel spreadsheet that contains the last four digits of the Collective Members’ social security numbers. SSI shall maintain this spreadsheet in strict confidence and it shall only use it for the sole purpose of obtaining updated addresses for Collective Members.

designated confidential and treated as such by Plaintiff's counsel and SSI.

4. Within 45 calendar days of the Court's entry of this Order, SSI will mail to all Collective Members finalized copies of the attached "Notice of Collective Action Lawsuit" form ("Notice Form"), the attached "Consent to Join" form ("Consent Form"), and a postage-paid return envelope bearing SSI's address (together 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, SSI will make all reasonable efforts to update the address information and re-send the Notice Package.

5. In order to join the FLSA collective pursuant to 29 U.S.C. § 216(b), a Collective Member must complete and sign 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. In addition, Consent Forms that are emailed to Plaintiffs' Counsel or SSI by such postmark date will be deemed timely.

6. Plaintiff's counsel will file the Court each completed Consent Form within 5 business days of receipt.

7. Within 72 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-described notice and opt-in process.

9. Nothing in this stipulation and order waives or is intended to waive any defenses that have been or may be asserted by Defendant in this matter.

FOR PLAINTIFF:

/s/ Mark J. Gottesfeld
Peter Winebrake
Mark J. Gottesfeld, Esq.
Winebrake & Santillo, LLC
715 Twining Road, Suite 211

August 5, 2022
Date

Dresher, PA 19026
(215) 884-2491
mgottesfeld@winebrakelaw.com

FOR DEFENDANT:

/s/ Sidney R. Steinberg
Sidney R. Steinberg, Esq.
Eric B. Meyer, Esq.
FISHERBROYLES, LLP
One Liberty Place
1650 Market Street, 36th Floor
Philadelphia, PA 19103
(610) 806-5060
Sidney.Steinberg@fisherbroyles.com

August 5, 2022
Date

SO ORDERED THIS 10th DAY OF August, 2022.

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LESSON, JR.
United States District Judge

[insert date], 2022

NOTICE OF COLLECTIVE ACTION LAWSUIT

Ricci v. NewRez, LLC., 5:22-cv-00650-JFL
United States District Court, Eastern District of Pennsylvania

TO: [INSERT NAME]

INTRODUCTION

This Notice tells you about a lawsuit seeking unpaid overtime wages allegedly owed to certain individuals employed by NewRez LLC (“the Company”) since [three years prior to date of Order granting Stipulation] who were non-exempt and paid additional compensation classified in the Company’s payroll system as “OTI Elig Bonus.” Please read this Notice carefully.

DESCRIPTION OF THE LAWSUIT

In February 2022, a former employee named Andrew Ricci (“Plaintiff”) started this lawsuit against the Company. The lawsuit is proceeding in the United States District Court in Allentown, PA (“the Court”) and is assigned to the Honorable Joseph F. Leeson, Jr.

The lawsuit alleges that the Company violated federal and state wage laws by failing to factor in payments classified in the Company’s payroll system as “OTI Elig Bonus” in calculating the rate at which overtime compensation was calculated for weeks in which employees worked over 40 hours. These “OTI Elig Bonus” payments were made to certain employees when, for example, they worked processing loans and received bonuses outside of the Company’s compensation system during the weekend. The lawsuit seeks to recover unpaid overtime wages, liquidated damages, attorney’s fees, and costs.

The Company denies the allegations and maintains that it properly calculated the overtime paid to its employees.

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

Individuals employed during any time after [INSERT DATE] who were non-exempt and were paid additional compensation classified in the Company’s payroll system as “OTI Elig Bonus” are eligible to join the lawsuit. According to the Company’s records, you meet this criteria.

**THIS NOTICE HAS BEEN AUTHORIZED BY
THE UNITED STATES DISTRICT COURT.**

**THE COURT HAS TAKEN NO POSITION REGARDING THE
MERITS OF THE CLAIMS OR DEFENSES IN THIS MATTER.**

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:

Settlement Services, Inc.
2032D Thomasville Road
Tallahassee, FL 32308

Your return envelope *must be postmarked* by [insert date]. If you do not want to join the lawsuit, you do not need to do anything. If you fail to meet this deadline, you will not be allowed to participate in this lawsuit.

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you will be bound by the Court’s rulings on all issues, including the reasonableness of any settlement. If Plaintiff and other employees win, you may be eligible to a money payment. If the Company wins, you will receive 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.

EFFECT OF NOT JOINING THE LAWSUIT

If you do not join the lawsuit, you will not be bound by any of the Court’s rulings in the Lawsuit.

RETALIATION PROHIBITED

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

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; Ph: 215-884-2491; Web: www.winebrakelaw.com

You are not required to pay any money to this law firm. The firm works on a “contingency” basis. If the lawsuit results in a money recovery, the firm will be paid whatever attorney’s fees the Court orders or approves. Those fees will either be paid from the total recovery obtained or be paid separately by the Company. If the lawsuit is unsuccessful, the firm will receive nothing.

Please call the above law firm if you have any questions or want additional information about the lawsuit. Also, nothing prohibits you from consulting with other lawyers of your choice about the lawsuit or the information contained in this Notice.

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	Plaintiff,	:	No. 5:22-cv-00650
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NEWREZ LLC,		:	
	Defendant.	:	
		:	
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CONSENT TO BECOME PARTY PLAINTIFF

I have read the form entitled "Notice of Collective Action Lawsuit" and 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 rulings 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 by [insert deadline] to:

Settlement Services, Inc.
2032D Thomasville Road
Tallahassee, FL 32308