

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

KENROY ANDRE BROWN, on behalf of himself,  
individually, and on behalf of all others similarly-situated,

Plaintiff,

- against -

MICHAEL DELLA VECCHIA & SON INC., and  
ANTHONY DELLA VECCHIA, individually,

Defendants.

Case No.: 1:17-cv-06094-WFK-JO

**COURT AUTHORIZED NOTICE OF LAWSUIT**

If you worked for MICHAEL DELLA VECCHIA & SON INC. and/or for ANTHONY DELLA VECCHIA (together as “Defendants”), at any time between October 18, 2011 and the present, *please read this Notice.*

*Important: You are NOT being sued. This Notice is NOT a solicitation from a lawyer. The Court authorized this Notice.*

- Plaintiff, Kenroy Andre Brown, is a former employee of Defendants, for whom he worked as a laborer.
- Plaintiff brought this lawsuit against Defendants on behalf of himself and all other current and former non-managerial employees who worked for Defendants as laborers, or in other similar positions, at any time between October 18, 2011 and the present. Plaintiff claims that he worked in excess of forty hours per week and that Defendants did not pay him proper overtime compensation. Instead, Plaintiff claims that Defendants paid him only at his straight-time/regular rate of pay for all hours up to forty only and nothing for any hours worked over forty per week, in violation of the Fair Labor Standards Act, New York Labor Law, and the New York Code of Rules and Regulations. Defendants deny any wrongdoing and maintain that they paid all of their employees in accordance with federal and New York law.
- The Court has authorized the parties to send out this Notice. The Court has not decided who is right or who is wrong. However, your legal rights may be affected, and you have a choice to make now.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT**

If you choose to be included in this collective action, you must complete the consent form at the end of this Notice. You may then share in any proceeds from a settlement or judgment if those bringing the claims are successful, but you give

ASK TO BE INCLUDED	up any rights to separately sue the Defendants for the same legal claims asserted in this lawsuit.
DO NOTHING	By doing nothing, you will not be included in this lawsuit.

1. Why did I get this notice?

You are getting this notice because Defendants’ records show that you may have worked for one or both of them at some point between October 18, 2011 and the present, in a job similar to the one held by Plaintiff.

2. What is a collective action and who is involved?

In a collective action lawsuit, one or more persons can bring a lawsuit on behalf of others who have similar claims. The individual who brought this lawsuit is called the Plaintiff. The corporate entity and individual that are being sued are called the Defendants. One court resolves the issues for everyone who decides to join the case.

3. What is this collective action lawsuit about?

Plaintiff alleges that Defendants’ compensation practices violated federal and New York law. Plaintiff claims that he and others who worked for Defendants are entitled to unpaid overtime wages, liquidated damages, attorneys’ fees, and costs.

Defendants deny any wrongdoing and/or liability and maintain that all of their employees were paid in accordance with federal and New York law.

4. What is the purpose and effect of this notice?

This notice is for the sole purpose of determining those persons who wish to be involved in this case.

If you elect to join this case, you may share in any settlement or judgment if the Plaintiff is successful. There are no assurances that any recovery will be awarded.

You should be aware that a claim under the FLSA must be brought within two years of the date the claim accrues, unless you can prove that your employer’s violation was “willful,” in which case the claim must be brought within three years.

5. How do I join this collective action lawsuit?

To participate in this lawsuit, you need to fill out the enclosed form called “Consent to Join” and mail it in the enclosed, postage-paid envelope to Plaintiff’s Counsel, Borrelli & Associates, P.L.L.C. Should the enclosed envelope be lost or misplaced, the Consent to Join form must be sent to:

Borrelli & Associates, P.L.L.C.  
1010 Northern Boulevard, Suite 328  
Great Neck, New York 11021  
Tel: (516) 248-5550

You can also: fax the Consent to Join form  
to (516) 248-6027; or scan and email it to  
mjb@employmentlawyernewyork.com

The signed Consent to Join form must be filed with the Court by June 29, 2018. If your signed Consent to Join form is not filed with the Court by June 29, 2018, you may not be allowed to participate in this lawsuit.

6. If I choose to join this lawsuit, will I have to participate in any legal proceedings?

Most likely, if you choose to join this lawsuit, you will be required to provide information and answer questions relating to your employment with the Defendants. You may be required to testify at a deposition or at trial, respond to written questions, and produce documents relevant to the case. For this reason, if you join the lawsuit, you should preserve all documents relating to your employment with the Defendants currently in your possession. Plaintiff's attorneys will assist you with these requirements.

7. What happens if I do nothing at all?

You will not be included in this lawsuit and you will not be affected by any settlement or judgment rendered in this case, whether favorable or unfavorable. The limitations period on your claim continues to run.

8. Can I participate in this collective action lawsuit regardless of my immigration status?

Yes. You have a right to participate in this Lawsuit regardless of your immigration status.

9. If I join, will there be any impact on my employment?

No. Federal and New York law prohibit Defendants from discharging or in any other manner retaliating against you because you join this case or have in any other way exercised your rights under federal or New York law.

10. Do I have a lawyer in this case?

Plaintiff is represented by Borrelli & Associates, P.L.L.C. If you choose to join this Lawsuit, Borrelli & Associates, P.L.L.C. will represent you on a contingency fee basis, meaning that you will not owe any attorneys' fees unless Plaintiff is successful and wins the case or obtains a settlement, in which case the Court will determine the amount of attorneys' fees to be paid.

You do not have to be represented by Borrelli & Associates, P.L.L.C. and may instead hire another attorney of your choosing, at your own expense, or represent yourself *pro se* without the assistance of a lawyer. If you intend to retain your own lawyer or to represent yourself, you should indicate this on the "Consent to Join" form. If you send back your form but do not indicate that you intend to retain your own lawyer or to represent yourself, the Court will assume that you want Borrelli &

Associates, P.L.L.C. to represent you.

11. This Notice has been authorized by the Court

This notice and its contents have been authorized by Magistrate Judge James Orenstein of the United States District Court for the Eastern District of New York, located in Brooklyn, New York. The Court has not yet ruled on whether Plaintiff's claims or Defendants' defenses have any merit.

**PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK OF THE COURT ABOUT THIS NOTICE.**

Although the Court has approved the sending of this Notice, the Court expresses no opinion on the merits of the Lawsuit. If you have any questions, you may contact Plaintiff's attorneys, Borrelli & Associates, P.L.L.C, by telephone at (516) 248-5550, or in writing at Borrelli & Associates, P.L.L.C, 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021, or by email at [mjb@employmentlawyernewyork.com](mailto:mjb@employmentlawyernewyork.com).

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EASTERN DISTRICT OF NEW YORK

KENROY ANDRE BROWN, on behalf of himself,  
individually, and on behalf of all others similarly-  
situated,

Plaintiff,

- against -

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**CONSENT TO JOIN FORM**

IF YOU RECEIVED THIS FORM AND WANT TO JOIN THIS LAWSUIT, PLEASE  
COMPLETE THESE TWO STEPS:

1. COMPLETE AND SIGN THIS CONSENT TO JOIN FORM; AND
2. USE THE ENCLOSED ENVELOPE TO RETURN THIS FORM TO THE ADDRESS  
BELOW NOT LATER THAN JUNE 29, 2018.

Borrelli & Associates, P.L.L.C.  
1010 Northern Blvd., Suite 328  
Great Neck, New York 11021

You can also: fax the Consent to Join form  
to (516) 248-6027; or scan and email it to  
mjb@employmentlawyernewyork.com

**I consent to join the lawsuit brought pursuant to the Fair Labor Standards Act, the New York  
State Labor Law, and the New York Code of Rules and Regulations; and I elect to be  
represented by [choose ONE]:**

\_\_\_\_ Borrelli & Associates, P.L.L.C.  
I authorize Plaintiff Kenroy Andre  
Brown and Borrelli & Associates,  
P.L.L.C. to act on my behalf in all  
matters relating to this action, including  
any settlement of my claims brought  
under federal and state laws.

\_\_\_\_ Another attorney of my choosing, who shall  
promptly file a notice of appearance on my  
behalf.

\_\_\_\_ Myself *pro se* without the assistance of an  
attorney.

If you do not select any of the representation options above but send back your form to Borrelli & Associates, P.L.L.C., you will automatically be represented by Plaintiff's lawyers, Borrelli & Associates, P.L.L.C. Moreover, failure to select a representation option above will authorize Kenroy Andre Brown and Borrelli & Associates, P.L.L.C. to act on your behalf in all matters relating to this action, including any settlement of your federal and state law claims. You are permitted to proceed with alternative counsel of your own choosing at your own expense or to represent yourself *pro se* without the assistance of an attorney.

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SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Start Date of Employment

\_\_\_\_\_  
End Date of Employment