

4/9/14

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CARLOS CASTILLO, on behalf of himself and all others similarly situated, DANIEL RODRIGUEZ, on behalf of himself and all others similarly situated, CARLOS PALMA, on behalf of himself and all others similarly situated,

Plaintiffs,

-against-

EL TEQUILAZO CORP., ABELARDO LONGAS, individually, LAZARO NAVARRO, individually, FERNANDO NAVARRO, individually, and JUAN NAVARRO, individually,

Defendants.

NOTICE OF MOTION

12-CV-3180 (AKH)

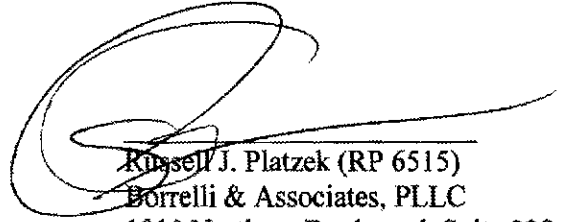
*Pl's motion to certify as FLSA class is granted. Defendants shall produce, w/in 20 days, the info described in para. 3 of the notice. Plaintiff shall provide a form, note, in form substantially like the template attached, and prepare a plan for going forward.*  
4-9-14  
*[Signature]*

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED:

**PLEASE TAKE NOTICE**, that upon the annexed Affirmation of Russell J. Platzek, dated February 21 2014, the Exhibits to that Affirmation and the accompanying Memorandum of Law in Support of Plaintiff's Motion to Conditionally Certify a Collective Action, the undersigned will move this Court before the Honorable Judge Alvin K. Hellerstein at the United States Courthouse, located at 500 Pearl Street, New York, New York, 10007 at a date and time to be determined by the Court, for an order, pursuant to the Fair Labor Standards Act (FLSA) 29 U.S.C. §216(b):

- (1) Conditionally certifying this suit as a collective action;
- (2) Authorizing Plaintiffs to send a Notice of this action along with a Consent Form (opt-in form) to all of Defendants' employees in non-managerial positions, currently and/or formerly employed by Defendants from April 20, 2009 until the present;
- (3) Ordering Defendants to produce, in a computer readable manner, the names, last known mailing addresses, alternate addresses, all telephone numbers, last known email addresses, dates of birth, social security numbers, and dates of employment of all non-managerial employees who worked from April 20, 2009 until the present; and
- (4) Ordering Defendants to post the Notice and deliver a memo, along with the Consent forms, in a place where all employees are likely to view it in all locations owned and/or operated by Defendants.

Dated: February 21, 2014  
Great Neck, New York

A handwritten signature in black ink, appearing to read 'Russell J. Platzek', is written over a horizontal line. The signature is stylized with a large, looping initial 'R'.

Russell J. Platzek (RP 6515)  
Borrelli & Associates, PLLC  
1010 Northern Boulevard, Suite 328  
Great Neck, New York  
(516) 248-5550



**IV. YOUR OPTIONS REGARDING THE LAWSUIT**

You may elect to join this lawsuit, bring your own separate lawsuit, or not do anything. If you intend to join the lawsuit, you must complete the enclosed consent to become a plaintiff form by **[insert 45 days from the date of notice]** \_\_\_\_\_, and send it to the following address:

[PLAINTIFF ATTORNEY NAME]  
[STREET ADDRESS]  
[TELEPHONE & FAX]  
[EMAIL]

You may elect to participate in the lawsuit using [PLAINTIFF'S ATTORNEY NAME] as your counsel, or you may join using your own counsel. [PLAINTIFF'S ATTORNEY NAME] will promptly file the elections to join that he receives.

**V. EFFECT OF JOINING THIS ACTION**

If you choose to join this lawsuit, you will be bound by any outcome, whether favorable or unfavorable. If the Plaintiff and anyone else who joins this lawsuit prevail at trial, or a settlement is reached, you may be entitled to share in any money recovered, less your share of expenses, including the fees and expenses of plaintiffs' lawyers as may be allowed by the court. On the other hand, if the [DEFENDANTS] prevail, you may not recover any money.

If you choose to join the lawsuit, and while the suit is proceeding, you may be required to answer written questions, provide information and documents (including electronic records), appear for a deposition to give testimony under oath, and testify in court.

You can also join this lawsuit by counsel of your own choosing. If you do so, your attorney must file an "opt-in" consent form by \_\_\_\_\_ **[insert date that is 45 days from date of notice mailing]**.

**VI. EFFECTS OF NOT JOINING THIS LAWSUIT**

If you choose not to join this lawsuit, you do not need to do anything. If you do not join this lawsuit, you will not be a part of the case in any way, and will not be bound by any resolution, whether favorable or unfavorable. You should be aware that a claim under the FLSA must be brought within two (2) 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 (3) years.

**VII. NO RETALIATION PERMITTED**

Federal and state law prohibits an employer from discriminating or retaliating against you for choosing to join this lawsuit or otherwise exercising your existing rights under the FLSA.

**VIII. LEGAL REPRESENTATION FOR THE DEFENDANTS**

The [DEFENDANTS] are represented by [DEFENDANTS' ATTORNEY NAME, FIRM NAME, AND CITY WHERE FIRM IS LOCATED].

**CONSENT TO JOIN**

1. [STATE YOUR NAME, ADDRESS, AND PHONE NUMBER]
2. [STATE OF YOUR WISH TO BE REPRESENTED BY YOUR OWN ATTORNEY, STATE YOUR ATTORNEY'S NAME, ADDRESS, AND PHONE NUMBER. IN ORDER TO REPRESENT YOU THAT ATTORNEY MUST FILE A NOTICE OF APPEARANCE WITH THE CLERK OF THE COURT.]
3. [STATE THE RELEVANT FACTS, CIRCUMSTANCES, AND DATES AS TO WHICH YOU BELIEVE YOU ARE SIMILARLY SITUATED WITH PLAINTIFF AS TO THE SAME EMPLOYER NAMED IN THE LAWSUIT.]
4. SIGN BEFORE A NOTARY REPUBLIC.

Judge wrote:

“Plaintiffs’ motion to certify an FLSA class is granted. Defendants shall produce, within 20 days, the information described in para. 3 of the notice. Plaintiff shall propose a form of note in form substantially like the template attached, and propose a plan for going forward.

4-9-14

Alvin K. Hellerstein”