

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHILIP BRININGER, on behalf of himself,
individually, and on behalf of all others
similarly-situated,

Plaintiff,

-against-

FRED A. COOK, JR., INC., and BRIAN F.
COOK, an individual,

Defendants.

Case No.: 18-cv-4579-CS-JCM

COURT AUTHORIZED NOTICE OF LAWSUIT

If you worked for Fred A. Cook, Jr., Inc. at any time between January 11, 2016 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 Philip Brininger is a former employee of Fred A. Cook, Jr., Inc. and/or Brian F. Cook, an individual, (collectively, Defendants) for whom he worked as a vactor operator/foreman and a laborer.
- Plaintiff Brininger brought this lawsuit against Defendants on behalf of himself and all other current and former vactor operators/foremen and/or laborers who worked for Defendants at any time between January 11, 2016 and the present. Plaintiff claims that he worked in excess of forty hours per week and that Defendants did not pay him for all time spent traveling to and from job sites, and thus did not pay him overtime compensation at the rate of time and one-half his regular hourly rate for all hours that he worked in excess of forty per week, in violation of the Fair Labor Standards Act and New York Labor Law. 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 Plaintiff 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	
ASK TO BE INCLUDED	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 up any rights to separately sue the Defendants for the same legal claims 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 them at some point between January 11, 2016 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 alleges that Defendants required him to go to Fred A. Cook Jr., Inc's main office each day prior to and after working at the job site. Plaintiff alleges that Defendants improperly failed to compensate him for the travel time between the main office and the job site. 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 proceeding, 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 that 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 titled "Consent to Join Lawsuit" 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.
910 Franklin Avenue, Suite 200
Garden City, New York 11530
Tel: (516) 248-5550

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

The signed Consent to Join Lawsuit form must be filed with the court by April 12, 2019. If your signed Consent to Join Lawsuit form is not filed with the Court by April 12, 2019, 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 proceeding?

Most likely, if you choose to join this lawsuit, you will be required to provide information and answer questions relating to your employment with Defendants. You may be required to testify at a deposition or at a 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 claims 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 and 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 from any such settlement or judgment.

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 Lawsuit" 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 District Judge Cathy Seibel of the United States District Court for the Southern District of New York, located in White Plains, 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, 910 Franklin Avenue, Suite 200, Garden City, New York 11530, or by email at mjb@employmentlawyernewyork.com.

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SOUTHERN DISTRICT OF NEW YORK

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Plaintiff,

-against-

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Defendants.

Case No.: 18-cv-4579-CS

CONSENT TO JOIN LAWSUIT

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

1. COMPLETE AND SIGN THIS CONSENT TO JOIN LAWSUIT FORM; AND
2. USE THE ENCLOSED ENVELOPE TO RETURN THIS FORM TO THE ADDRESS BELOW NOT LATER THAN APRIL 12, 2019.

Borrelli & Associates, P.L.L.C.
910 Franklin Avenue, Suite 200
Garden City, New York 11530

You can also: fax the Consent to Join Lawsuit 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 Philip Brininger 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 Philip Brininger 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.

SIGNATURE

PRINT NAME

Address

City, State, Zip Code

Telephone Number

Email Address

Start Date of Employment

End Date of Employment