

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KENNETH ZORN-HILL,

Plaintiff,

-against-

A2B TAXI LLC, EVERALD GILLIARD, in his  
individual capacity, and TREVONNE GILLIARD, in  
her individual capacity,

Defendants.

Civ. No.: 19-cv-01058 (KMK)

**STIPULATION AND ORDER REGARDING CONDITIONAL CERTIFICATION,  
ISSUANCE OF COLLECTIVE ACTION NOTICE, AND DISCLOSURE OF CONTACT  
INFORMATION**

Plaintiffs KENNETH ZORN-HILL, on behalf of himself, individually, and on behalf of all others similarly situated, on the one hand, and Defendants A2B TAXI LLC, EVERALD GILLIARD and TREVONNE GILLIARD, individually, on the other hand, (Plaintiff and Defendants, together, as “the Parties”), by and through their respective undersigned counsel, hereby stipulate, and the Court hereby orders, that:

1. The First Cause of Action in Plaintiff’s Complaint (paragraphs 46-48 thereof) shall be conditionally certified pursuant to Section 216(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), with respect to a collective consisting of individuals employed by Defendants as drivers from three years prior to issuance of Notice to date. Specifically, the parties stipulate to the following collective as superseding that which is defined in paragraph 16 of the Complaint:

All drivers employed by Defendants during the period of three (3) years prior to issuance of the Notice, and who consent to file a claim to recover damages for overtime compensation (“FLSA Plaintiffs”).

2. Plaintiff's counsel shall send the Notice and Opt-In Form attached hereto as Exhibit A to putative members of the collective who have worked for Defendants at any time from three years prior to issuance of Notice to the present after receiving from Defendants' counsel a full and complete list of all Drivers' names, addresses, and available telephone numbers. Defendants' counsel shall provide said information in a Word or Excel file (or in another text searchable format agreed to by the parties' counsel, if available) within ten days of the Court so-ordering this stipulation. Plaintiff's counsel may send the notice to putative members of the collective, via First Class mail.

3. The Opt-In period shall be a sixty-day period commencing ten calendar days from the date Plaintiff's counsel receives the list of putative plaintiffs.

4. Plaintiff's counsel shall electronically file via ECF opt-in forms promptly upon receipt.

5. Plaintiff's counsel may send a Reminder Notice and Opt-In Form attached hereto as Exhibit B to putative members of the collective who have not yet opted-into this action thirty days after having sent the Notice and Opt-In Form. Plaintiff's counsel shall send the Reminder Notice and Opt-In Form via First Class mail.

6. By stipulating to Conditional Certification, the Defendants are not waiving their right to challenge collective action certification at a later date, to oppose any future motion that Plaintiff might make with respect to the issue of certification of an FLSA collective action or any defense on the merits of Plaintiff's claims.

7. This stipulation may be executed in counterparts and by facsimile/scanned signatures, which shall bear the same weight as original signatures.

Dated: April 5, 2019

Dated: April 5, 2019

CHARNY & WHEELER P.C.

JACKSON LEWIS P.C.

By: Nathaniel K Charny  
Nathaniel K. Charny, Esq  
Charny & Wheeler P.C.  
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**SO ORDERED**

White Plains, New York  
Apr. 5, 2019

[Signature]  
U.S.D.J.

UNITED STATES DISTRICT COURT  
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KENNETH ZORN-HILL,

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**COURT AUTHORIZED NOTICE OF LAWSUIT**

If you worked for A2B TAXI as a driver at any time between three years prior to the date of this Notice and the present, please read this Notice.

**THIS IS A COURT-AUTHORIZED NOTICE THAT A COLLECTIVE ACTION MAY AFFECT YOUR LEGAL RIGHTS.**

**The purpose of this Notice is to advise you of a lawsuit that has been filed against A2B TAXI under the Fair Labor Standards Act and of legal rights you have in connection with that lawsuit. The Court has not decided whether anyone is owed anything in this lawsuit. The Court is not endorsing the merits of the lawsuit or advising you to participate in this lawsuit; likewise, the Court is not endorsing the defenses being raised in this lawsuit. You are under no legal obligation to respond to this notice.**

*Important: You are NOT being sued. The Court authorized this Notice.*

- Plaintiffs KENNETH ZORN-HILL, LEITH MICKENS, JOSE RIVERA, CARL TRAVIS, and MICHAEL WARDLAW, are former employees of Defendant A2B TAXI, for whom they worked as drivers.
- Plaintiff KENNETH ZORN-HILL brought this lawsuit against Defendants on behalf of himself and all other current and former drivers who worked for A2B at any time between three years prior to date of this Notice and the present. LEITH MICKENS, JOSE RIVERA, CARL TRAVIS, and MICHAEL WARDLAW subsequently opted-in to join this lawsuit, and are represented by the same counsel as Mr. Zorn-Hill. These plaintiffs claim that they worked in excess of forty hours per week and that Defendants did not pay them for all hours worked, including all overtime wages due, in violation of the Fair Labor Standards Act.

- Defendants deny any wrongdoing or liability and have asserted a number of defenses, including that the plaintiffs were paid for all hours that they worked.
- 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.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
ASK TO BE INCLUDED	You may be eligible to join this lawsuit if you: (1) worked for A2B and were a driver at any time from three years prior to date of this Notice to the present; and (2) you worked more than 40 hours per week and were not paid overtime at one-and-a-half times your regular hourly rate of pay for any work performed in excess of 40 hours per week. If you satisfy the eligibility criteria above, you may choose to be included in this collective action by completing 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. By joining this lawsuit, you give up any rights to separately sue the Defendants about the same legal claims in this lawsuit.
DO NOTHING	By doing nothing, you will not be included in this lawsuit relating to claims under the Fair Labor Standards Act.

1. Why did I get this notice?

You are getting this notice because Defendants' records show that you may have worked for them as a driver at some point between three years prior to date of this Notice and the present.

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 law. Plaintiff claims that he and others employed as drivers are entitled to unpaid overtime wages, liquidated damages, attorneys' fees, and costs.

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

4. 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 Lawsuit" and mail it in the enclosed, postage-paid envelope to Plaintiff's Counsel, Charny &

Wheeler P.C. Should the enclosed envelope be lost or misplaced, the Consent to Join form must be sent to:

Charny & Wheeler P.C.  
9 West Market Street  
Rhinebeck, NY 12572  
Tel: (845) 876-7500

You can also fax the Consent to Join form to 845.876.7501 or scan and email it to [ncharny@charnywheeler.com](mailto:ncharny@charnywheeler.com).

The signed Consent to Join form must be postmarked by 60 days from mailing of this Notice. If your signed Consent to Join form is not postmarked by 60 days from mailing of this Notice, you may not be allowed to participate in this lawsuit.

5. What happens if I join the collective action lawsuit?

You will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable. If there is a favorable resolution, either by settlement or judgment, and you qualify under the law, you may be entitled to some portion of the recovery. By joining this lawsuit, you designate Plaintiff Kenneth Zorn-Hill, or his counsel, to the fullest extent possible, to make decisions on your behalf concerning the case, the method and manner of conducting the case, and all other matters pertaining to this lawsuit. Decisions made and agreements entered into by Plaintiff relating to the lawsuit will be binding on you if you join the lawsuit.

While this lawsuit is pending, you may be asked to provide documents or information relating to your employment with Defendants, which may include responding to written questions or answering questions in person under oath, either before or at trial. For this reason, if you join the lawsuit, you should preserve all documents relating to your employment with Defendants currently in your possession. Plaintiff's attorneys will assist you.

6. 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 statute of limitations on your federal claims continues to run.

7. 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.

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

No. Federal law prohibits Defendants from discharging or in any other manner retaliating against you because you join this case.

9. Do I have a lawyer in this case?

Plaintiff is represented by Charny & Wheeler P.C. If you choose to join this Lawsuit, Charny & Wheeler P.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 attorney's fees to be paid.

You do not have to be represented by Charny & Wheeler P.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 you, 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 Charny & Wheeler P.C. to represent you.

10. This Notice has been authorized by the Court

This notice and its contents have been authorized by Judge Kenneth M. Karas 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, Nathaniel K. Charny, Charny & Wheeler P.C., by telephone at (845) 876-7500 or in writing at Charny & Wheeler P.C., 9 West Market Street, Rhinebeck, New York 12572, or by email at [ncharny@charnywheeler.com](mailto:ncharny@charnywheeler.com).



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Defendants.

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**REMINDER – DEADLINE TO JOIN LAWSUIT IS [date]**

*Important: You are NOT being sued.*

This letter is to remind you that the deadline to opt-in to the wage-and-hour lawsuit currently pending against A2B TAXI is [60 days from mailing original notice]. If you want to participate in the lawsuit as detailed in the prior “Court-Authorized Notice” that was mailed to you on [date] and is enclosed herein, you must take two steps:

- STEP 1: COMPLETE AND SIGN THE ATTACHED “CONSENT TO JOIN LAWSUIT” FORM; AND**
- STEP 2: MAIL THE “CONSENT TO JOIN LAWSUIT” FORM TO THE ADDRESS BELOW TO ALLOW FOR FILING ON OR BEFORE [60 days from mailing original notice]:**

Charny & Wheeler P.C.  
9 West Market Street  
Rhinebeck, NY 12572  
Tel: (845) 876-7500

If you are receiving this Notice, you should only make your decision to participate in this lawsuit after reviewing the information contained in the “Court Authorized Notice of Lawsuit.” If you have not received the “Court Authorized Notice of Lawsuit” that was mailed to you on or about [DATE], you may contact Charny & Wheeler P.C. by phone, (845) 876-7500, or by e-mail at [ncharny@charnywheeler.com](mailto:ncharny@charnywheeler.com), to request a copy or with any questions.

THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFF’S CLAIMS OR OF THE DEFENDANTS’ DEFENSES.