

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GREG EGAN and PAUL TAVOLILLA, on behalf of
themselves, individually, and on behalf of all others
similarly-situated,

Plaintiffs,

-against-

SAFEWAY CONSTRUCTION ENTERPRISES, INC.,
and STEVE CESTARO, individually, and RAYMOND
CESTARO, individually,

Defendants.

**Docket No.: 1:19-cv-02052
(RJD) (PK)**

COURT AUTHORIZED NOTICE OF LAWSUIT

If you worked for Safeway Construction Enterprises, Inc. and/or Steve Cestaro, individually, and/or Raymond Cestaro, individually (collectively, “Defendants”), at any time between April 9, 2013 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.*

- Greg Egan and Paul Tavolilla are former employees of Defendants who worked as non-managerial laborers.
- Egan and Tavolilla brought this lawsuit, (and in it, together, are the “Plaintiffs”), against Defendants on behalf of themselves and all other current and former employees who worked for Defendants as non-managerial laborers at any time between April 9, 2013 and the present. Plaintiffs both claim that they worked in excess of forty hours per week and that Defendants did not pay them overtime pay at the rate of time and one-half their regular hourly rates of pay for all hours that they worked over forty each week, in violation of the federal 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 Plaintiffs to send out this Notice. The Court has not yet 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 to Join Lawsuit” 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 one or all of them at some point between April 9, 2013 and the present in a job similar to the ones held by Plaintiffs.

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 individuals who brought this lawsuit are called the Plaintiffs. The corporate entity and individuals 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?

Plaintiffs allege that Defendants’ compensation practices violated federal and New York law. Plaintiffs claim that they 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 Plaintiffs are successful. There are no assurances that any recovery will be awarded.

You should be aware that a claim under the Fair Labor Standards Act 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 entitled “Consent to Join Lawsuit” and mail it, in the enclosed, postage-paid envelope to one of the law firms representing the Plaintiffs, Borrelli & Associates, P.L.L.C. Should the enclosed envelope be lost or misplaced, the Consent to Join Lawsuit 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 November 25, 2019. If your signed “Consent to Join Lawsuit” form is not filed with the Court by November 25, 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/or 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 that are currently in your possession. Plaintiffs’ attorneys will assist you with these requirements if you elect for them to represent you, as explained below in section 10.

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 will, however, continue 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 both prohibit Defendants from discharging or in any other manner retaliating against you because you joined 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?

Plaintiffs are represented by Borrelli & Associates, P.L.L.C. and Moritt Hock & Hamroff LLP. If you choose to join this Lawsuit, Borrelli & Associates, P.L.L.C. and Moritt Hock & Hamroff LLP

will together represent you on a contingency fee basis, meaning that you will not owe any attorneys' fees unless Plaintiffs are successful and win the case or obtain 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 Moritt Hock & Hamroff LLP 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. and Moritt Hock & Hamroff LLP to represent you.

11. This Notice has been authorized by the Court

This notice and its contents have been authorized by Magistrate Judge Peggy Kuo 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 Plaintiffs' 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 Plaintiffs' 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, or Moritt Hock & Hamroff LLP, by telephone at (516) 873-2000, or in writing at Moritt Hock & Hamroff LLP, 400 Garden City Plaza, Garden City, New York 11530, or by email at kfrank@moritthock.com.

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Plaintiffs,

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**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 NOVEMBER 25, 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. and Moritt Hock & Hamroff LLP. I authorize Plaintiffs Greg Egan and Paul Tavolilla and Borrelli & Associates, P.L.L.C. and Moritt Hock & Hamroff LLP 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 Plaintiffs' lawyers, Borrelli & Associates, P.L.L.C. and Moritt Hock & Hamroff LLP. Moreover, failure to select a representation option above will authorize Greg Egan and Paul Tavolilla, and Borrelli & Associates, P.L.L.C. and Moritt Hock & Hamroff LLP, 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