

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

LUIS AVELAR and MATEO
GOMEZ,
individually and on behalf of all,
similarly situated persons,

Plaintiffs,

v.

HC CONCRETE CONSTRUCTION
GROUP, LLC, AND JON HARRIS,

Defendants.

Civil No.: 3:22-cv-00292

JUDGE ALETA A. TRAUGER

COLLECTIVE AND CLASS
ACTION COMPLAINT

NOTICE TO COLLECTIVE CLASS
MEMBERS

IMPORTANT NOTICE TO COLLECTIVE CLASS MEMBERS

Please read carefully. Your legal rights may be affected

TO: All Current and Former Hourly-Paid Construction Workers Who Worked for HC Concrete Construction Group, LLC, and Who Were Classified as “Independent Contractors” at Any Time Since September 23, 2019.

RE: **LAWSUIT CLAIMING VIOLATIONS OF FEDERAL WAGE LAWS AGAINST HC CONCRETE CONSTRUCTION GROUP, LLC AND JON HARRIS FOR FAILING TO PAY OVERTIME**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:	
File a Consent Form	If you wish to recover damages under federal law in this lawsuit, you MUST file the Consent Form attached to this Notice.
Do Nothing	By choosing not to file a Consent Form, you will not be permitted to recover compensation for alleged violations of federal wage laws in this lawsuit.

1. INTRODUCTION

The purpose of this Notice is: 1) to inform you of the existence of a collective action lawsuit

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in which you, as a current or former hourly-paid construction worker who worked for HC Concrete Construction Group, LLC (“HC Concrete”), and who was classified as an independent contractor, are potentially “similarly-situated” to the named Plaintiffs; 2) to advise you of how your rights may be affected by this lawsuit; 3) to instruct you on the procedure for participating in this lawsuit; and 4) and to inform you of your potential obligations should you decide to participate in this lawsuit. You have been sent this Notice because HC Concrete’s records indicate that you are an eligible Collective Class Member. The Court has taken no position in this case regarding the merits of Plaintiffs’ claims or Defendants’ defenses. Therefore, this Notice does not necessarily mean that you have a valid claim or are entitled to any monetary recover. These decisions must still be made by the Court.

2. DESCRIPTION OF THE LAWSUIT

On April 22, 2022, Luis Avelar and Mateo Gomez (“Plaintiffs”) brought this lawsuit against Defendants HC Concrete and Jon Harris, on behalf of themselves and all other past and present hourly-paid construction workers who worked for HC Concrete, and who were classified as “independent contractors” at any time since July 28, 2019.

Plaintiffs allege that HC Concrete is a concrete company depending upon the labor of several hundred hourly-paid construction workers. Plaintiffs further allege that HC Concrete purposefully misclassifies hourly-paid construction workers as “independent contractors” to avoid paying overtime at one and one-half times (1.5 times) the construction workers’ hourly rate of pay in violation of the federal Fair Labor Standards Act.

Plaintiffs have sued to recover unpaid overtime compensation for themselves and all other current and former hourly-paid construction workers who worked for HC Concrete, and who were

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classified as “independent contractors” at any time since July 28, 2019. In addition, Plaintiffs seek to recover an additional equal amount as liquidated damages (*i.e.* double damages) for themselves and all other current and former hourly-paid construction workers, as well as an award of pre-judgment and post-judgment interest, attorney’s fees and costs.

This lawsuit is currently in the early pretrial stage.

Defendants deny Plaintiffs’ allegations and contend that they properly classified certain construction workers as “independent contractors” and do not owe them any overtime pay.

3. HOW TO JOIN THIS LAWSUIT

If you believe that you were misclassified as an “independent contractor” and, as a result, that you were not properly compensated, you may join this lawsuit as a party plaintiff. In order to join this lawsuit, you **MUST** complete the Consent Form and return it to Plaintiffs’ counsel by completing the Consent Form and mailing it in the postage pre-paid envelope provided. You may also join this lawsuit by sending the Consent Form to Plaintiffs’ counsels’ staff, either by electronic mail or telefax:

Pamela L. Pardee (ppardee@dickinsonwright.com) or
Missy Council (mcouncil@dickinsonwright.com)
844-670-6009 (telefax)

You may also complete a Consent Form online at www.hcconcreteclassaction.com.

You **MUST** complete the Consent Form online or complete and return the Consent Form by e-mail, fax, or mail to Plaintiffs’ counsel in sufficient time to have Plaintiffs’ counsel file it with the federal court on or before _____. If you fail to return the Consent Form to Plaintiffs’ counsel or submit it online in time for it to be filed with the federal court on or before the above deadline date, it may prevent you from participating in this lawsuit.

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4. QUESTIONS REGARDING THIS NOTICE

If you have any questions regarding this Notice, you can contact Plaintiffs' counsel:

Martin D. Holmes (mdholmes@dickinsonwright.com)
Autumn Gentry (agentry@dickinsonwright.com)
Dickinson Wright PLLC
424 Church Street, Suite 800 Nashville, Tennessee 37219
615-242-0434

5. LEGAL EFFECT OF JOINING THIS SUIT

If you choose to join this suit, you will be bound by any judgment entered, although you cannot be required to pay Defendants' attorney's fees whether Plaintiffs win or lose this suit. While this suit is proceeding, you may be required to respond to written questions, sit for depositions, and/or testify in court.

The attorneys for Plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorney's fee. If there is a recovery, the attorneys for the Class will receive a part of any settlement obtained or money judgment entered in favor of all members of the Class.

By joining this lawsuit, you designate the named Plaintiffs (the Class Representatives) as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorney's fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the Representative Plaintiffs or Class Representatives will be binding on you if you join this lawsuit.

6. LEGAL EFFECT OF NOT JOINING THIS SUIT

If you choose not to join this suit, you will not be affected by any judgment or settlement

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rendered in this case, whether favorable or unfavorable to the class. If you choose not to join in this lawsuit, you are free to retain your own attorney and file your own lawsuit. If you choose not to join in this lawsuit or file your own lawsuit, any claim that you may have for unpaid overtime may become partially or completely time-barred.

7. NO RETALIATION PERMITTED

Federal law prohibits an employer from firing you or taking any other adverse employment action against you because you have exercised your legal right to participate in this lawsuit or because you have otherwise exercised your rights under the federal overtime law. This means the Defendants, their owners, officers, directors and/or any managers are forbidden from taking adverse action against you because you participate in this lawsuit.

8. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this suit, your interests will be represented by the named Plaintiffs or Class Representatives through their attorneys, as counsel for the Class. Counsel for the Class are:

Martin D. Holmes (mdholmes@dickinsonwright.com)
Autumn Gentry (agentry@dickinsonwright.com)
Dickinson Wright PLLC
424 Church Street, Suite 800
Nashville, Tennessee 37219
615-242-0434

Because the Court has conditionally certified this case as a collective action, if you participate in this lawsuit you are represented by Class counsel identified above. Defendants, and their owners, officers, directors, and management staff are not permitted to discuss this case with you or to discuss whether you should or should not be included in the lawsuit.

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9. FURTHER INFORMATION

Further information about this Notice, the deadline for filing a “Plaintiff Consent Form,” or questions concerning this lawsuit may be obtained by writing, e-mailing, or telephoning Plaintiffs’ counsel at the number and address stated above.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, THE HONORABLE ALETA A. TRAUGER, FEDERAL DISTRICT COURT JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS’ CLAIMS OR OF DEFENDANTS’ DEFENSES.

PLEASE DO NOT CONTACT THE DISTRICT COURT JUDGE, CLERK, OR STAFF REGARDING THIS NOTICE.

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