

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SAUL MARCELO CUZCO,

Plaintiffs,

Class Action

v.

Case No. 06-CV-2789  
(SCR)(LMS)

ORION BUILDERS, INC. and JAN KVAS,  
Defendants

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**NOTICE AND CONSENT TO BECOME PARTY PLAINTIFF**

TO: All construction or carpentry workers who were employed at or by Orion Builders, Inc. and/or Jan Kvas during part or all of the years 2002, 2003, 2004, and/or 2005.

RE: Right to Opt Into Lawsuit to Recover Unpaid Minimum Wages and Overtime Compensation

1. INTRODUCTION:

A collective action lawsuit has been filed against Orion Builders, Inc. and Jan Kvas (“the Defendants”) alleging that the Defendants improperly failed to pay the federal minimum wage of \$5.15 per hour, or overtime wages at a rate of time-and-one-half, when employees worked over 40 hours per week. The purpose of this Notice is to inform you of the existence of this lawsuit in which you potentially are similarly situated to the named Plaintiff (the person bringing this suit), to advise you of how your rights may be affected by this suit, and to instruct you on the procedure for participating in this suit.

2. DESCRIPTION OF THE LAWSUIT:

Plaintiff Saul Marcelo Cuzco brings suit against the Defendants on behalf of himself and other workers employed in the Defendants’ construction business during part or all of the years 2002, 2003, 2004 and/or 2005. This lawsuit alleges that workers are owed overtime pay under the Fair Labor Standards Act. Plaintiff alleges that he and others similarly situated are entitled to recover overtime pay because they were not paid time and one half every hour they worked over 40 hours in a workweek. It also alleges that the Defendants’ requirement that workers’ first 15 days of labor serve as a “security deposit” resulted in workers not earning the minimum wage. This lawsuit has been brought in the United States District Court for the Southern District of New York

This lawsuit is currently in the early pretrial stage. The Defendants deny the Plaintiff’s allegations, and deny that they are liable to the Plaintiff for any of the back pay, damages, costs, or attorney’s fees sought.

3. COMPOSITION OF THE CLASS:

The Plaintiff seeks to sue on behalf of himself and also on behalf of other employees with whom he is similarly situated. Specifically, Plaintiff seeks to sue on behalf of all construction and/or carpentry workers employed in the Defendants' construction business during part or all of the years 2002, 2003, 2004 and/or 2005.

4. YOUR RIGHT TO PARTICIPATE IN THIS SUIT:

If you fit the class definition above you may join this suit by mailing the "Consent to Become Party Plaintiff" form to Plaintiff's counsel at the following address:

Daniel Werner, Esquire  
Workers' Rights Law Center of New York, Inc.  
101 Hurley Ave., Suite 5  
Kingston, New York 12401  
USA

From the U.S. call toll free:  
1-800-905-9644  
Call from outside the United States:  
(845) 331-6615

This form must be sent to Plaintiff's counsel in sufficient time to have Plaintiff's counsel file it with the federal court on or before [*insert cut-off date*], 2007. If you fail to return the "Consent to Become Party Plaintiff" form to Plaintiff's counsel in time for it to be filed with the federal court on or before the above deadline, you may not be able to participate in this lawsuit.

5. EFFECTS OF JOINING THIS SUIT:

If you choose to join in the suit, you will be bound by the Judgment, whether it is favorable or unfavorable. You may also be held liable for costs associated with this lawsuit. 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 the Plaintiff, who are with the non-profit law office called the Workers' Rights Law Center of New York, Inc. ("WRLC"), are offering their services free of charge. If there is a recovery, the attorneys for the class may be awarded attorney's fees and costs from the Defendants. If you return the consent form attached to this Notice, you are agreeing to designate the WRLC as your representatives to make decisions on your behalf concerning the litigation and the method and manner of conducting the litigation. Further, you are agreeing that the WRLC may seek an award of attorney's fees and costs from the Defendants. Decisions and agreements made and entered into by the Plaintiff will be binding on you if you join this lawsuit.

Furthermore, you can join this lawsuit by counsel of your own choosing. If you do so, your attorney must file an "opt-in" consent form by [*insert cut-off date*], 2006.

6. NO 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 rendered in this case, whether favorable or unfavorable to the class. If you choose not to join this lawsuit, you are free to file your own lawsuit provided it is filed within the time period required by law.

7. NO RETALIATION PERMITTED:

**IT IS AGAINST THE LAW FOR ANYONE TO RETALIATE AGAINST OR TRY TO INTIMIDATE ANY PERSON FOR EXERCISING HIS OR HER RIGHTS TO PARTICIPATE IN THIS LAWSUIT. If you think anyone has retaliated against you, or has threatened to retaliate in any way, call the Workers' Rights Law Center immediately at (845)331-6615 (if you are in immediate danger, you should dial 911).**

8. YOUR LEGAL REPRESENTATION IF YOU JOIN:

If you choose to join this suit and agree to be represented by the named Plaintiff through their attorneys, your counsel in this action will be:

Daniel Werner, Esquire  
Workers' Rights Law Center of New York, Inc.  
101 Hurley Ave., Suite 5  
Kingston, New York 12401  
USA

From the U.S. call toll free:  
1-800-905-9644  
Call from outside the United States:  
(845) 331-6615

9. FURTHER INFORMATION:

**If you have any questions about this lawsuit or Notice you may contact Plaintiff's counsel, Daniel Werner, at:**

**CALL TOLL FREE IN THE U.S.  
1 800-905-9644**

**FROM OUTSIDE THE UNITED STATES, CALL:  
(845) 331-6615**

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE STEPHEN C. ROBINSON, FEDERAL DISTRICT JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFF'S CLAIMS OR OF DEFENDANTS' DEFENSES.**

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SOUTHERN DISTRICT OF NEW YORK

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**CONSENT TO BECOME PARTY PLAINTIFF**

**By my signature below, I hereby consent to be a party plaintiff in the above-styled lawsuit for claims under the Fair Labor Standards Act. I also authorize the filing and prosecution of the above-styled Fair Labor Standards Act action in my name and on my behalf.**

**I declare, under the penalty of perjury, that the signature below is of the person named in this consent form.**

\_\_\_\_\_  
SIGNATURE (Sign your name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
Country

\_\_\_\_\_  
(Telephone Number, if available, or a contact number  
where we can leave a message for you)

Dates you worked for the Defendants: \_\_\_\_\_

PLEASE RETURN THIS FORM IN TIME FOR FILING WITH THE COURT BY \_\_\_\_\_, 2007,  
TO

Daniel Werner, Esquire  
Workers' Rights Law Center of New York, Inc.  
101 Hurley Ave., Suite 5  
Kingston, New York 12401  
USA