



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**GEORGE BROWN and
DANIEL J. MACK**

CIVIL ACTION NO. 12-1180

versus

**SECTION "A"
JUDGE JAY C. ZAINEY**

**CITY OF NEW ORLEANS and
NEW ORLEANS POLICE
DEPARTMENT**

**MAGISTRATE DIVISION "4"
MAGISTRATE JUDGE KAREN WELLS ROBY**

NOTICE OF FAIR LABOR STANDARDS ACT OVERTIME ACTION

TO: All current and former employees of the City of New Orleans from May 10, 2009 through the present date who are/were employed as members of the New Orleans Police Department and received the educational incentive pay and/or any of the special rates of pay for Field Training Officers, Bomb Squad, Marine, K-9, Motorcycle, Tactical and/or Mounted Units.

RE: Fair Labor Standards Act Collective Lawsuit Filed Against the City of New Orleans Seeking Unpaid Overtime Compensation

1. INTRODUCTION.

The purpose of this Notice is to inform you of the existence of a proposed collective action lawsuit for unpaid overtime in which you are potentially "similarly situated" to the Named Plaintiffs; to advise you of how your rights may be affected by this lawsuit; to instruct you on the procedure for participating in this lawsuit, should you decide that it is appropriate and should you choose to do so; and to participate in the settlement.

2. DESCRIPTION OF THE LAWSUIT.

On May 10, 2012 George Brown and Daniel Mack filed a lawsuit on behalf of themselves and similarly situated past and current employees of the New Orleans Police Department (hereinafter referred to as the "NOPD") of the City of New Orleans (hereinafter referred to as the "City") who received an education pay incentive (the "Education Pay Incentive"). On August 16, 2012 the Plaintiffs filed an Amended Complaint adding claims regarding officers of the NOPD who received any of the special rates of pay for Field Training Officers, Bomb Squad, Marine Unit, K-9 Unit, Motorcycle, Tactical Unit and/or Mounted Unit during the relevant time period (the Education Pay Incentive and all rates collectively, the "Special Rates of Pay"). This Overtime Action alleges that the Plaintiffs, and others similarly situated, are owed unpaid overtime under the Fair Labor Standards Act ("FLSA" or the "Act") attributable to the Special Rates of Pay.

This Overtime Action is currently in the early pre-trial stages. The City and Named

Plaintiffs have reached a settlement agreement whereby Named Plaintiffs and all similarly situated NOPD officers who “opt in” to the lawsuit would be provided with unpaid overtime attributable to the Special Rates of Pay from January 1, 2012 through December 31, 2013. The City continues to deny liability with respect to the Overtime Action, and the City further maintains that it acted non-willfully and in good faith with respect to the allegations contained in the Overtime Action.

3. COMPOSITION OF THE COLLECTIVE ACTION GROUP.

In this Overtime Action, the Named Plaintiffs are suing on behalf of themselves and on behalf of other NOPD officers with whom they are similarly situated. More specifically, the collective action group includes all current and former employees of the City who are/were employed as members of the New Orleans Police Department on or after May 10, 2009 and received any Special Rate of Pay.

4. YOUR RIGHT TO PARTICIPATE IN THIS SUIT.

If you fit the definition above, you may join the Overtime Action (that is, you may “opt in”) by mailing, faxing, or e-mailing the “Consent to Become Party Plaintiff” form by May 15, 2014 to the following address:

NOPD Overtime Action
GUSTE, BARNETT, SCHLESINGER, HENDERSON & ALPAUGH, L.L.P.
639 Loyola Avenue, Suite 2500
New Orleans, Louisiana 70113
Telephone: (504) 529-4141
Facsimile: (504) 561-0326
E-Mail: nopdovertime@gustebarnett.com

If you fail to return the “Consent to Become Party Plaintiff” form on or before May 15, 2014, you may not be able to participate in the Overtime Action. If you file a consent form, your right to participate in the Overtime Action may depend upon a later decision by the District Court that you and the Named Plaintiffs are actually “similarly situated” in accordance with federal law, that no statute of limitations expired against you, and/or that some other legal or factual reason does not bar your claim.

5. EFFECTS OF JOINING THIS SUIT.

If you choose to join in this suit, you will receive unpaid overtime, if any, related to the Special Rates of Pay from January 1, 2012 through December 31, 2013, calculated in accordance with the formal settlement agreement between the City and Named Plaintiffs. This amount will necessarily depend on the amount of overtime you worked for this period as well as your hourly rate of pay.

The attorneys for the Named Plaintiffs are being paid by Crescent City Lodge No. 2, Fraternal Order of Police, Inc. (“FOP”). As part of the settlement and in accordance with the Fair Labor Standards Act, the City will provide Named Plaintiffs’ counsel *with a specified*

amount of attorneys' fees from which the FOP will be reimbursed the attorneys' fees it has paid to date. None of the fees will impact in any way the overtime compensation you receive as part of the settlement.

By joining this lawsuit, you designate the collective action group representatives (i.e., the Named Plaintiffs) as your agents to make decisions on your behalf concerning the litigation and the settlement, the method and manner of conducting this litigation and the settlement, and all other matters pertaining to the Overtime Action. By joining this suit, you understand that Named Plaintiffs have entered into a binding "Settlement Agreement and Release" with the City, signed by the parties December 30, 2013 (attached hereto as Exhibit "A" and incorporated herein by reference), pursuant to which the Settlement Sum (as defined in the Settlement Agreement and Release) shall constitute the sole financial recovery by Class Members (as defined in the Settlement Agreement and Release).

6. NO LEGAL EFFECT IN NOT JOINING THIS SUIT.

If you choose not to join the Overtime Action, you will not be affected by the settlement. However, the passage of time may result in part or all of your potential FLSA claim being barred by the applicable statute of limitations period. If you wish to participate in the Overtime Action, it is important that you sign, date, and mail, fax or e-mail the attached "Consent to Become Party Plaintiff" form to Named Plaintiffs' counsel as soon as possible, but in any event, no later than the May 15, 2014 deadline.

7. NO RETALIATION PERMITTED.

FEDERAL LAW PROHIBITS THE CITY OR THE NOPD FROM DISCHARGING YOU OR IN ANY OTHER MANNER DISCRIMINATING AGAINST YOU BECAUSE YOU HAVE EXERCISED YOUR RIGHTS UNDER THE FAIR LABOR STANDARDS ACT.

8. YOUR LEGAL REPRESENTATION IF YOU JOIN.

If you choose to join this suit, your interests will be represented by the Named Plaintiffs through their attorneys, as counsel for the collective action group. Counsel for the Named Plaintiffs are:

C. Theodore Alpaugh, III
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639 Loyola Avenue, Suite 2500
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Claude A. Schlesinger
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639 Loyola Avenue, Suite 2500
New Orleans, Louisiana 70113
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Telecopier: (504) 561-0326
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9. COUNSEL FOR THE CITY.

The attorneys for the City of New Orleans are:

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10. FURTHER INFORMATION.

Further information about this Notice, the deadline for filing a "Consent to Become Party Plaintiff" form, or questions concerning this lawsuit may be obtained by writing or telephoning Plaintiffs' counsel at any of the numbers and addresses listed in Section 8 above.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT, HONORABLE JAY ZAINY, UNITED STATES DISTRICT JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE NAMED PLAINTIFFS' CLAIMS OR DEFENDANTS' DEFENSES.