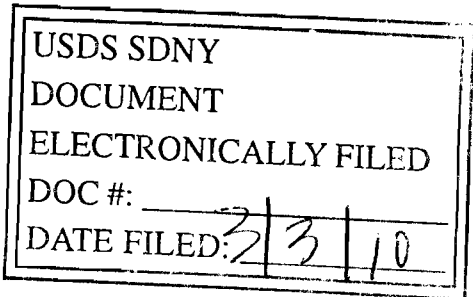


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
LOUIS FERRER and GLEN ALTOMENTE,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

- against -

RAINES & WELSH & SONS, INC.,
RAINES & WELSH & SONS
CONTRACTORS, INC.,
THOMAS J. WELSH, DEBORAH WELSH,
STEVEN RAINES and JOHN DOES #1-10,
Jointly and Severally,

Defendants.
-----X

09 CV 4309 (HB)

ORDER

**ORDER ON PLAINTIFFS' MOTION TO CONDITIONALLY CERTIFY A FAIR
LABOR STANDARDS ACT COLLECTIVE ACTION AND AUTHORIZE NOTICE TO
BE ISSUED TO ALL PERSONS SIMILARLY SITUATED**

THIS MATTER came before the Court on Plaintiffs' Motion to Conditionally Certify a Fair Labor Standards Act Collective Action and Authorize Notice to be Issued to All Persons Similarly Situated and related relief, and the Court, having reviewed the said motion, opposition thereto, the reply, and the case file herein, and now being sufficiently advised,

HEREBY ORDERS that Plaintiffs' Motion is GRANTED, and FURTHER ORDERS that:

1. The collective action notice entitled "NOTICE OF LAWSUIT AND OPPORTUNITY TO JOIN," attached to this Order as Exhibit "E," as amended by the Court, is hereby approved for mailing to potential plaintiffs. Copies shall be sent in both English and Spanish; and,
2. The collective class of potential plaintiffs in this matter shall consist of all current and former construction workers and other manual labor employees who worked for Defendants at any time from July 8, 2006 to the entry of judgment in this action; and

3. Defendants shall provide to Plaintiffs the names and last-known addresses of all potential plaintiffs who worked in the above positions from on or after July 8, 2006 to date no later than five (5) days after the date of this Order. This information shall be supplied in paper form, and also digitally in one of the following formats: Microsoft Excel; Microsoft Word; or Corel WordPerfect; and,

4. Plaintiffs shall mail the notice of collective action to all potential plaintiffs, together with a consent form entitled "Consent to Become Party Plaintiff" attached to this Order as Exhibit "F" **as amended by the Court**, no later than ten (10) days following the defendants' disclosure of the names and last-known addresses of the potential plaintiffs; and,

5. If any notice to any potential plaintiff is returned as undeliverable, Plaintiffs' counsel is permitted to mail the notice to such potential plaintiff again at any other address he may determine is appropriate; and,

6. Plaintiffs' counsel may issue a follow-up reminder, attached to this Order as Exhibit "G" **as amended by the Court**, to the potential plaintiffs approximately forty (40) days following the date of the initial mailing, reminding the potential plaintiffs of the deadline and enclosing a "Consent to Become Party Plaintiff" form; and,

7. Defendants shall also, within ten (10) business days of the date of this order, post the notice in each workplace where potential collective action members are employed, which shall direct any person who wants to opt in to the office of Plaintiffs' counsel, who shall provide a consent form to any person who requests one; and,

8. All potential plaintiffs must opt-in no later than sixty-five (65) days following the date of mailing of the collective action notice by returning the executed form entitled "Consent to Become Party Plaintiff" to Plaintiff's counsel no later than sixty (60) days from the date of mailing. Plaintiffs' counsel shall thereupon promptly file such executed consents with the Court.

SO ORDERED.

DATED this 2 day of May 2010



HON. HAROLD BAER, JR. U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____ x
LOUIS FERRER and GLEN ALTOMENTE, :
Individually and on Behalf of All Others : Civil Action No. 09-cv-4309 (WCC)
Similarly Situated, :
: :
: :
Plaintiffs, :
: :
vs. :
: :
: :
RAINES & WELSH & SONS, INC., RAINES :
& WELSH & SONS CONTRACTORS, INC., :
THOMAS J. WELSH, DEBORAH WELSH, :
STEVEN RAINES and JOHN DOES #1-10, :
Jointly and Severally, :
: :
Defendants. :
: :
_____ x

NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN

FROM: PELTON & ASSOCIATES, PC
111 Broadway, Suite 901
New York, New York 10006
Tel: (212) 385-9700
Fax: (212) 385-0800
pelton@peltonlaw.com

TO: All current and former construction workers and other manual labor employees of Raines & Welsh & Sons, Inc. and its corporate owners and/or affiliates ("Raines & Welsh"), who worked for Raines & Welsh any time on or after ~~May 4, 2006~~ July 8, 2006.

RE: Opportunity to join a lawsuit asserting violations of the Fair Labor Standards Act against Raines & Welsh for its alleged failure to pay regular wages and overtime compensation for work performed in excess of forty (40) hours per week.

I. INTRODUCTION

The purpose of this notice is to inform you of the existence of a collective action lawsuit in which you potentially are "similarly situated" to the named plaintiffs, to advise you of how your rights may be affected by this lawsuit and to instruct you on the procedure for participating in this lawsuit. The lawsuit at issue was filed on May 4, 2009 against defendant Raines & Welsh in the United States District Court for the Southern District of New York. The plaintiffs allege that the defendants violated the Federal Fair Labor Standards Act by not paying eligible employees' wages for all hours worked and time and one-half their regular hourly rate, or overtime compensation, for all hours worked in excess of forty (40) hours per week. The lawsuit is seeking back pay and double liquidated damages, as well as costs and attorneys' fees. Raines & Welsh denies the plaintiffs' allegations and denies that it is liable to the plaintiffs for any of the back pay, damages, costs or attorneys' fees sought.

II. COMPOSITION OF THE COLLECTIVE ACTION CLASS

The plaintiffs seek to sue on behalf of themselves and on behalf of all other employees with whom they are similarly situated. Specifically, under the federal law, the plaintiffs seek to sue on behalf of themselves and all other similarly situated current and former construction workers and other manual laborers who worked for Raines & Welsh at any time ~~within the past three years~~. From July 8, 2006 to the entry of

III. YOUR RIGHT TO PARTICIPATE IN THE LITIGATION

If you fit within the definition above and worked for Raines & Welsh ~~within the past three years~~, you may join this case. In order to join this case (that is, to "opt-in"), you **must** sign the attached "Consent to Become a Party Plaintiff" form attached and return it to the lawyers who are representing the plaintiffs no later than sixty (60) days after the date of this notice. If you sign and return the attached form, you will be represented by plaintiffs' counsel at the following address:

PELTON & ASSOCIATES, PC
111 Broadway, Suite 901
New York, New York 10006
Telephone: (212) 385-9700
Facsimile: (212) 385-0800
Email: pelton@peltonlaw.com

judgment in this action.

same as above

Your form must be sent to plaintiffs' counsel at the above address in sufficient time to have plaintiffs' counsel file it with the federal court on or before _____ [Insert the date 65 days after the date of mailing of the notice] If you fail to return the Consent to Become a Party Plaintiff form to the plaintiffs' 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. 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 _____ with the Clerk of the Court. The address of the Court is United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007.

IV. EFFECT OF JOINING THIS ACTION

MM
If you choose to join in this case, you will be bound by the Judgment, whether it ~~is favorable or unfavorable~~. The attorneys for the collective action plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery there will be no attorneys' fees. If there is a recovery, the attorneys for the collective action will receive a part of any settlement obtained or money judgment entered in favor of all members of the collective action. If you sign and return the Consent to Become a Party Plaintiff form attached to this Notice, you are agreeing to designate the collective action 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 attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the representative plaintiffs will be binding on you if you join this lawsuit. However, the Court has retained jurisdiction to determine the reasonableness of any contingency agreement entered into by the plaintiffs with counsel, and to determine the adequacy of the plaintiffs' counsel.

- provides for a recovery of money for you or not.

subject to review by the Federal District Court,

V. TO STAY OUT OF THE LAWSUIT

If you do not wish to be part of the lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the federal claims portion of this case in any way and will not be bound by or affected by the result (whether favorable or unfavorable). Your decision not to join this case will not affect your right to bring a similar case on your own at a future time.

VI. NO RETALIATION PERMITTED

Federal law prohibits Raines & Welsh from taking any retaliatory action against any person, including current employees, who joins this case. Raines & Welsh is prohibited by law from retaliating against you for exercising your rights under the Fair Labor Standards Act.

VII. YOUR LEGAL REPRESENTATION IF YOU JOIN

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

PELTON & ASSOCIATES, PC
111 Broadway, Suite 901
New York, New York 10006
Telephone: (212) 385-9700
Facsimile: (212) 385-0800
Email: pelton@peltonlaw.com

VIII. FURTHER INFORMATION

Further information about this Notice, the deadline for filing a Consent to Become a Party Plaintiff, or answers to questions concerning this lawsuit may be obtained by contacting Plaintiffs' counsel: (a) by telephone at (212) 385-9700; (b) email at pelton@peltonlaw.com; or (c) in writing at Pelton & Associates, PC, 111 Broadway, Suite 901, New York, New York 10006.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, THE HONORABLE ~~WILLIAM C. CONNER~~, U.S.D.J. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANT'S DEFENSES.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.

Harold Baer, Jr.

DATED: _____, ~~2009~~
2010

PLEASE RETURN THIS FORM FOR FILING WITH THE COURT BY _____ 2009
TO: 2010

PELTON & ASSOCIATES, PC
111 Broadway, Suite 901
New York, New York 10006
(Phone)(212) 385-9700; (Fax)(212) 385-0800
pelton@peltonlaw.com

Further information about this Notice, the deadline for filing a Consent to Become a Party Plaintiff, or answers to questions concerning this lawsuit may be obtained by contacting Plaintiffs' counsel: (a) by telephone at (212) 385-9700; (b) email at pelton@peltonlaw.com; or (c) in writing at Pelton & Associates, PC, 111 Broadway, Suite 901, New York, New York 10006.

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Harold Baer, Jr.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.

DATED: _____, ~~2009~~ 2010