-PAL Gilbert v. Well	Fargo Bank, N.A.	Di	oc. 48
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Attorneys for Plaintiff ERIC GILBERT

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

ERIC GILBERT; on behalf of himself, all others similarly situated,

Plaintiff,

v.

WELLS FARGO BANK, N.A. and DOES 1-50, inclusive,

Defendant.

Case No.: 2:11-cv-01841-JCM-PAL

ORDER APPROVING FLSA

NOTICE

The Court Orders as follows:

- The Court adopts the attached Notice and Consent to Join form for use in this 1. case that are attached as Exhibits "A" and "B" respectively.
- 2. Notice of this lawsuit will be sent to: All persons employed by Wells Fargo Bank, N.A. as Business Sales Officers, and/or any others similarly situated, from July 5, 2009 to the present.
- 3. If it has not already done so, within ten (10) days of the date of this Order, Defendant Wells Fargo Bank, N.A. ("Wells Fargo") will provide to a third-party administrator of the parties' selection ("the Administrator") a list in computer-readable format of the (a) full

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name; (b) current home address or last known address; (c) telephone number; and (d) Social Security number of each person who falls in the definition set forth in paragraph two (2) of this Order. The Administrator will treat this information as confidential and will not disclose it to Plaintiff's counsel or other third parties, except that contact information can be disclosed to Plaintiff's counsel for those people who return Consent to Join forms.

- 4. Within twenty-eight (28) days of the date of this Order, the Administrator shall mail a Notice, a Consent to Join form, and a postage pre-paid return envelope, to each person identified on the list discussed in Paragraph 3 of this Order.
- 5. Any person who wishes to opt into this lawsuit must properly complete the Consent to Join form and return it to the Administrator on or before sixty (60) days from the date the notice is mailed. Any potential opt-in plaintiff whose Consent to Join is postmarked after the date will not be able to participate in this lawsuit.
- 6. If any notice package is returned undeliverable, the Administrator will, within fourteen days thereafter, use the Social Security number provided by Wells Fargo and attempt to obtain an alternate address for that addressee and mail the notice package to that alternate address. The Administrator will keep a record of: (a) the date on which any notice package is returned undeliverable; (b) the date on which the undeliverable notice package is sent to an alternate address; and (c) any updated addresses.

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7. On each Friday after the initial mailing, the Administrator will e-mail to counsel for both parties PDF copies of all Consent to Join forms the Administrator received during that week. It will then be Plaintiff's counsel's responsibility to file the Consent to Join forms with the Court in a timely manner, and the statute of limitations will continue to run until the actual filing of the Consent to Join form.

IT IS SO ORDERED

DATED: August 9, 2012

U.S. DISTRICT COURT JUDGE

JAMES C. MAHAN

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1 2 3 4 5 6 7	Mark R. Thierman, NV SBN 8285 laborlawyer@pacbell.com Jason J. Kuller, NV SBN 12244 jason@thiermanlaw.com Joshua D. Buck, NV SBN 12187 josh@thiermanlaw.com THIERMAN LAW FIRM, PC 7287 Lakeside Drive Reno, Nevada 89511 Tel. (775) 284-1500 Fax. (775) 284-1506		
8	Attorneys for Plaintiff ERIC GILBERT		
9	UNITED STATES	DISTRICT COURT	
wyer.n	DISTRICT OF NEVADA		
Email laborlawyer@pacbell.net www.laborlawyer.net 11	ERIC GILBERT; on behalf of himself, all others similarly situated, Plaintiff, v. WELLS FARGO BANK, N.A. and DOES 1-50, inclusive, Defendant.	Case No.: 2:11-cv-01841-JCM-PAL [PROPOSED] NOTICE OF PENDENCY OF FLSA COLLECTIVE ACTION LAWSUIT AGAINST WELLS FARGO BANK, N.A.	
20 21 22 23	others similarly situated, from July 5, 2009 to RE: Fair Labor Standards Act lawsuit filed aga	ainst Wells Fargo Bank, N.A.	
24		<u>DUCTION</u>	
25	The purpose of this notice is to:		
26	1) inform you of the existence of a lawsuit seeking recovery of unpaid overtime compensation under the Fair Labor Standards Act ("FLSA") in which you may		
27	compensation under the Fair La		

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- 2) advise you of how your rights may be affected by this lawsuit; and
- 3) instruct you on the procedure for participating in this lawsuit, if you choose to do so.

This Notice is not an expression by the court of any opinion as to the merits of any claims or defenses asserted by any party to this action.

DESCRIPTION OF THE LAWSUIT

On June 10, 2011, Plaintiff Eric Gilbert ("Plaintiff" or "Gilbert") filed a collective and class action complaint against Wells Fargo Bank N.A. ("Wells Fargo" or "Defendant"), on behalf of himself and all others similarly situated, for overtime compensation under the FLSA and the Nevada Labor Code. Specifically, Plaintiff claims that he and other persons employed as Wells Fargo Business Sales Officers ("BSOs") were incorrectly classified as "exempt" from overtime compensation under the FLSA and Nevada Labor Code. As a result of this alleged misclassification, Plaintiff contends that he and other BSOs are owed overtime compensation for all hours they worked over forty (40) hours per week. Plaintiff seeks back pay in an amount equal to the alleged unpaid wages and liquidated damages (double damages) resulting from Wells Fargo's alleged unlawful conduct

Wells Fargo denies Plaintiff's claims and contends that Plaintiff and all other similarly situated BSOs were correctly classified as "exempt" under federal and state laws. Accordingly, Wells Fargo denies that it is liable for any damages resulting from this lawsuit.

DEFINITION OF WHO MAY PARTICIPATE IN THIS LAWSUIT

To participate in this lawsuit, you must have been employed by Wells Fargo as a BSO at some point within three years from the date a request to "Consent to Join" the lawsuit is actually filed with the federal court (see enclosed form).

YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

If you fit the definition above, you may join this case by mailing the enclosed "Consent to Join" form to the third party administrator ("the Administrator") at the following address:

Simpluris, Inc. Tony Dang 3176 Pullman Street, Suite 123 Costa Mesa, CA 92626

If you want to join this lawsuit, you must send the form to the Administrator so that the attorneys prosecuting this case have time to file it with the Federal Court. If you do not return the "Consent to Join" form in time for it to be filed with the Federal Court, you may not be able to participate in this lawsuit.

(775) 284-1500 Fax (775) 703-5027 287 Lakeside Drive Reno, NV 89511

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EFFECT OF JOINING THIS SUIT

If you choose to join this case, you will be bound by the decision of the court, whether it is favorable or unfavorable.

If you sign and return the "Consent to Join" form you are agreeing to:

- designate the Plaintiff as your agent to make decisions on your behalf 1) concerning this lawsuit;
- the method and manner of conducting this lawsuit; 2)
- enter into an agreement with Plaintiff's counsel concerning attorney's fees and 3) costs: and
- 4) all other matters pertaining to this lawsuit.

These decisions and agreements made and entered into by the representative Plaintiff will be binding on you if you join this lawsuit. However, the court has retained jurisdiction to determine the reasonableness of any settlement with the Defendant, and any agreement concerning the reasonableness of any attorney's fees and costs that are to be paid to the Plaintiff's counsel.

The attorney for the Plaintiff class is being paid on a contingency fee basis, which means that if there is no recovery there will be no attorney's fee. If Plaintiff prevails in this litigation, the attorney for the class will request that the court either determine or approve the amount of attorney's fee and costs he is entitled to receive for his services.

LEGAL EFFECT IN NOT JOINING THIS SUIT

You do not have to join this lawsuit. If you do not wish to participate in this lawsuit, then do nothing. If you choose not to join this lawsuit, you will not be affected by any judgment, dismissal, or settlement rendered in this lawsuit, whether favorable or unfavorable to the class. This means if Plaintiff wins, you will not collect any money from this lawsuit; if Plaintiff loses, you will not lose any claims you may or may not have under the FLSA. If you choose not to join this lawsuit you are free to file your own lawsuit.

STATUTE OF LIMITATIONS ON POTENTIAL CLAIMS

The maximum period of time that you can collect unpaid wages under the FLSA is three (3) years from when you worked the hours, but were not paid time and one-half for overtime work. The statute of limitations continues to expire until you file with the court a written consent to join this lawsuit, or initiate your own lawsuit to collect your unpaid wages.

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DATED:

HON. JAMES MAHAN

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NO RETALIATION PERMITTED

Federal Law prohibits Wells Fargo from discharging you or in any other manner discriminating against you if you exercise your rights under the FLSA to seek compensation.

YOUR IMMIGRATION STATUS DOES NOT MATTER IN THIS CASE

You are entitled to be paid overtime wages and minimum wages under the FLSA, even if you are not otherwise legally entitled to work in the United States. Bringing a claim in the court for unpaid overtime wages is not a basis for you to be deported from the United States.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this lawsuit and agree to be represented by the named Plaintiff through his attorney, your counsel in this action will be the attorneys at:

> **Thierman Law Firm** 7287 Lakeside Drive Reno, NV 89511 775-284-1500 Email: laborlawyer@pacbell.net

FURTHER INFORMATION

The court has taken no position in this case regarding the merits of the Plaintiff's claims or of the Defendant's defenses.

DO NOT CONTACT THE CLERK OF THE COURT

U.S. DISTRICT COURT JUDGE	

Email laborlawyer@pacbell.net www.laborlawyer.net Reno, NV 89511 (775) 284-1500 Fax (775) 703-5027

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3	jason@thiermanlaw.com Joshua D. Buck, NV SBN 12187	
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	Reno, Nevada 89511	
6	Tel. (775) 284-1500	
7	Fax. (775) 284-1506	
8	Attorneys for Plaintiff ERIC GILBERT	
9	UNITED STATES	S DISTRICT COURT
10	DISTRICT OF MENADA	
11	DISTRICT OF NEVADA	
12	ERIC GILBERT; on behalf of himself, all	Case No.: 2:11-cv-01841-JCM-PAL
	others similarly situated,	CONSENT TO JOIN
13	Plaintiff,	CONSENT TO JOIN
14	Transcrit,	
	v.	
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16	WELLS FARGO BANK, N.A. and DOES	
17	1-50, inclusive,	
	Defendant.	
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21		brought under the Fair Labor Standards Act
22	("FLSA") and that it seeks unpaid overtime wages from Wells Fargo Bank, N.A ("Wells	
	Fargo"). I have read the Notice accompanyin	
23	for Wells Fargo as a Business Sales Officer at	some point within the past three years.
24	I CONSENT TO JOIN THIS LAWS	SUIT. By signing this Consent to Join, I am
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agreeing to have Plaintiff Eric Gilbert act as my agent to make decisions on my behalf concerning the litigation and resolution of my FLSA claims. I am also agreeing to be represented by Mr. Gilbert's attorneys, (Mark Thierman, Esq., Thierman Law Firm, 7287 Lakeside Drive, Reno, NV 89511), and any other attorneys with whom they may associate,

or have worked,

27 unless I hire my own attorney.

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THIERMAN LAW FIRM, PC7287 Lakeside Drive Reno, NV 89511 (775) 284-1500 Fax (775) 703-5027

1	I understand that I may participate in this lawsuit only if my completed, signed and
1	dated "Consent to Join" form is postmarked on or before [60 days from the mailing date].
2 3	Print Name:
4	Address:
5	City, State & Zip:
6	Telephone number:
7	Signature:
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9	Date signed:
Email laborlawyer@pacbell.net www.laborlawyer.net 12 12 14 15 16 17 17 18 18 18 19 19 19 19 19 19 19 19 19 19 19 19 19	
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