

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LORI S. MOTT, et al.,	:	
Plaintiffs,	:	CIVIL ACTION
	:	No. 12-5244
v.	:	
	:	
DRIVELINE RETAIL	:	
MERCHANDISING, INC.,	:	
Defendant.	:	

ORDER

AND NOW, this 21st day of May, 2014, it is **ORDERED** that Plaintiffs' Motion for Conditional Class Certification [ECF No. 38] is **GRANTED**. It is further **ORDERED** as follows:

1. The conditional class consists of all former and current employees of Defendant Driveline Retail Merchandising, Inc. ("Driveline") who were classified or referred to by Driveline as Merchandiser, Master Merchandiser, or Master Merchandiser/Area Coordinator at any time within three years prior to September 2, 2012; and
2. On or before **June 2, 2014**, Defendant Driveline must deliver to Plaintiffs' counsel an electronic listing in Excel spreadsheet format, with each item listed as a separate column, which sets forth the full name, mailing address, city, state, zip code, email address, job title, pay rate, hire date, and termination date (if applicable) for each member of the conditional class; and
3. On or before **July 2, 2014**, Plaintiffs must send to each member of the conditional class by regular mail and email the Notice and Consent to Join forms attached to this Order as Exhibit A; and

4. Plaintiffs must establish a website that contains the approved Notice and Consent to join forms; establish a toll free number that members of the conditional class can call to have basic questions about the lawsuit answered from a script approved by the parties; and receive executed Consent to Join forms from members of the conditional class for forwarding to the Court.
5. To be considered timely filed, executed Consent to Join forms from members of the conditional class must be postmarked or successfully sent by facsimile to Plaintiffs' counsel on or before **October 30, 2014**.


ANITA B. BRODY, J.

Copies **VIA ECF** on _____ to: Copies **MAILED** on _____ to:

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ATTACHMENT A

NOTICE OF COLLECTIVE ACTION LAWSUIT

Mott et al. v. Driveline Retail Merchandising, Inc.
United States District Court for the Eastern District of Pennsylvania

THIS IS NOT A LAWSUIT AGAINST YOU!

***PLEASE READ THIS NOTICE CAREFULLY AS IT CONTAINS INFORMATION THAT
MAY AFFECT YOUR LEGAL RIGHTS***

**TO: ALL PERSONS WHO ARE OR WERE EMPLOYED BY DRIVELINE RETAIL
MERCHANDISING, INC AS A MERCHANDISER, MASTER MERCHANDISER
OR MASTER MERCHANDISER/AREA COORDINATOR AT ANYTIME ON OR
AFTER [DATE].**

Purpose of This Notice

The purpose of this notice is to inform you of the existence of a collective action lawsuit in which you may be “similarly situated” to those who filed the lawsuit (the “Named Plaintiffs”), to advise you how your rights may be affected by this lawsuit, and to instruct you on the procedure for participating in this lawsuit if you want to do so.

As described more fully below, if you are eligible and wish to participate in this collective action lawsuit, you must complete and submit the “Consent to Join” form attached to this Notice and mail it or FAX it according to the instructions no later than [DATE].

Description of the Lawsuit

On September 12, 2012, ten Named Plaintiffs filed a Complaint in the United States District Court for the Eastern District of Pennsylvania against Driveline Retail Merchandising, Inc. (“Driveline”) on behalf of themselves and all others formerly or currently employed by Driveline in the United States as a Merchandiser, Master Merchandiser or Master Merchandiser/Area Coordinator. The Named Plaintiffs allege that Driveline failed to pay them and all other “similarly situated” straight-time and overtime pay to which they were entitled under the Fair Labor Standards Act (“FLSA”). Specifically, the Named Plaintiffs allege:

1. that Driveline failed to pay them for the time they spent working on Driveline’s behalf from home at the beginning and end of each workday; and
2. that Driveline failed to pay them for the time they spent driving from home to their first store of the day, and for the time they spent driving from store to store during the workday.

The Named Plaintiffs also allege the Driveline acted willfully to deny them wages to which they were entitled and, therefore, seek liquidated damages, which means double the actual damages. The Named Plaintiffs also seek attorneys’ fees and costs.

Driveline denies the Named Plaintiffs' allegations that it failed to correctly compensate employees as required under the FLSA.

The Current State of This Lawsuit

This lawsuit is in the early stages of litigation. The Court has conditionally certified this case to proceed as a collective action and ordered that this Notice be sent to you.

Your Right to Participate in This Lawsuit

If you are or were employed by Driveline for any period on or after **[DATE]** as a Merchandiser, Master Merchandiser, or Master Merchandiser/Area Coordinator and you believe that Driveline failed to pay you for all hours that you worked or for all overtime compensation to which you were entitled, you have the right to join this lawsuit against Driveline.

If you want to participate in this lawsuit, you must take steps to indicate your intent to do so. You must complete, sign and mail *or* FAX a copy of the "Consent to Join" form, which is attached to this Notice, to **[ADDRESS & FAX NUMBER]**. If mailed, your signed "Consent to Join" form must be postmarked no later than **[DATE]**.

If you send your "Consent to Join" form by FAX, it must be successfully faxed no later than **[DATE]**.

If your "Consent to Join" form is not postmarked by the cutoff date, or not successfully faxed by the cutoff date, you will not be allowed to participate in this lawsuit.

Statute of Limitations

The FLSA contains a limitations period of at least two years and potentially up to three years for the filing of a claim for unpaid overtime wages, after which the claim is forever barred. In the event you decide not to join in this lawsuit, you should consult with your own attorney as to the statute of limitations which would apply to your claim.

Effect of Joining This Lawsuit

If you file a "Consent to Join" form and the Court permits your claims to proceed to trial as part of the collective action, you will be bound by any judgment regarding the FLSA claims in this lawsuit, whether favorable or unfavorable to the Plaintiffs. While the lawsuit is proceeding, you may be required to provide relevant information, and may be required to give sworn testimony in a deposition or in Court.

If you choose to join this collective action, you will be represented by the law firms currently representing the Plaintiffs. If you join the lawsuit, you will not be required to pay attorneys' fees or expenses in advance. Counsel for the Plaintiffs may be paid either by Driveline, or they may, either in addition to or instead of payment from Driveline, receive a

percentage of any money judgment or settlement in favor of you, or others similarly situated, as agreed by contract and/or ordered by the Court.

As an alternative to joining this lawsuit, you may file your own lawsuit with any counsel of your choosing, or do nothing.

If you return a "Consent to Join" form, you should be aware that important decisions concerning the prosecution of this case, including the FLSA claims, may be made on your behalf.

No Legal Effect in Not Joining This Lawsuit

If you choose not to join this collective action lawsuit, you will not be affected by any judgment, whether it is favorable or unfavorable to the Plaintiffs and the collective class. If you choose not to file a "Consent to Join" form, you are free to file your own lawsuit. If you choose not to file a "Consent to Join" form, the statute of limitations will continue to run until such time as you file a lawsuit on your own behalf.

No Retaliation Permitted

FEDERAL LAW PROHIBITS DRIVELINE OR ANY OF ITS AGENTS FROM TAKING ANY ACTION AGAINST YOU BECAUSE YOU ELECT TO JOIN THIS LAWSUIT BY FILLING OUT AND RETURNING THE "CONSENT TO JOIN" FORM, OR OTHERWISE EXERCISING YOUR RIGHTS UNDER THE FLSA.

Plaintiffs' Collective Action Counsel

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Driveline's Legal Representation

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Further Information

For further information about this lawsuit, including any part of this Notice, please contact Plaintiffs' counsel by phone or email as shown above.

PLEASE DO NOT CONTACT THE COURT OR ANY COURT PERSONNEL FOR INFORMATION.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR DRIVELINE'S DEFENSES.

CONSENT TO JOIN

I WANT TO JOIN the lawsuit entitled Mott et al. v. Driveline Retail Merchandising, Inc., docket no. 2:12-cv-05244 AB, which is pending in the United States District Court for the Eastern District of Pennsylvania, as a Plaintiff.

I authorize the Law Firms of Paul, Reich & Myers, P.C. and Ralph A. Powell Esquire, P.C. to represent me in this case. I understand that if my claim is successful, the fees of Paul, Reich & Myers P.C. and Ralph A. Powell Esquire P.C. will be paid by a percentage of any settlement obtained or money judgment entered in favor of the plaintiffs, and/or by any attorneys' fees which Driveline Retail Merchandising, Inc. may pay pursuant to any settlement or court order. If my claim is not successful, I will not owe any fees to Paul, Reich & Myers or to Ralph A. Powell Esquire, P.C.

I designate the Named Plaintiffs as my representatives who shall, to the fullest extent possible, make decisions on my behalf concerning the case, the method and manner of conducting the case, the entering of an agreement with the Plaintiffs' lawyers regarding fees and costs, any settlement which may be reached with Driveline Retail Merchandising, Inc. on my behalf, and all other matters pertaining to this lawsuit.

Dated: _____

SIGNATURE

NAME (PLEASE PRINT)

ADDRESS

CITY, STATE & ZIP CODE

TELEPHONE NUMBER(S)

EMAIL ADDRESS(ES)