

United States District Court
Southern District of Texas

ENTERED

March 15, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Bradley Hardin and Benjamin Feist, §
Individually and on behalf of others §
Similarly Situated, §
Plaintiffs, §

v. §

Civil Action H-22-111

The Texian Group, Inc., §
Defendant. §

**ORDER GRANTING PLAINTIFFS' MOTION
FOR DISTRIBUTION OF COURT-AUTHORIZED NOTICE
PURSUANT TO 29 U.S.C. § 216(b)**

Plaintiffs' Motion for Distribution of Court-Authorized Notice Pursuant to 29 U.S.C. § 216(b), ECF No. 54, is **GRANTED**.

By entry of this order, the court makes no findings as to the merits of Plaintiffs' case. This order only permits that notice of this action be provided to these groups of workers (the Putative Collective Members):

All of Defendant's current and former inspectors who worked for Spectra or Enbridge from June 15, 2019, through March 2022, or who worked for any other operator that required Texian's inspectors to use timesheets that only permitted the inspectors to report their days worked at time from June 15, 2019, through final resolution of this Action; and

All of Texian's current and former inspectors who were paid a per diem at any time from June 15, 2019, through final resolution of this action.

The court approves and authorizes dissemination of the proposed Notice and Opt-in Consent Form attached hereto. **The parties should take note that the court has interlineated certain edits to Exhibit F to Plaintiffs' Motion. Those edits shall be made to the Notice and Consent Form before dissemination to the Putative Collective Members.**¹

The Notice may be sent to the Putative Collective Members by mail, email, and text message. There shall be a 60-day opt-in period beginning from the date the Notice is mailed. Plaintiffs may send a reminder notice at the 30-day mark of that 60-day opt-in period to all Putative Collective Members who have not joined the case at that point.

IT IS ORDERED that:

1. Within ten (10) days of this Order, Defendant shall provide Plaintiffs' counsel with an up-to-date computer-readable data file (such as a Microsoft Excel file) containing the names of all Putative Collective Members, along with their job titles, dates of work, work location(s), last-known mailing address(es), email address(es), and mobile telephone number(s).

2. The Notice shall be disseminated, either from Plaintiffs' counsel directly or by a third-party administrator hired by Plaintiffs' counsel, to the Putative Collective Members by mail in a single mailing (which will include the notice and the consent form), email, and text message no later than twenty-one (21) days after receipt by Plaintiff's counsel of the contact information described above. With the exception of the edits shown on the attachment hereto, the court approves and adopts Plaintiff's proposed Notice, including the proposed letter notice, email notice, and the text message notice.

¹ The court's changes are made to alleviate some of the concerns Defendant raised in response to the instant motion. Questions or concerns about the court's changes may be raised by filing a request for a hearing.

3. Plaintiffs' counsel or a third-party administrator hired by Plaintiffs' counsel shall facilitate notice through text message to the phone numbers identified in the contact information provided by Defendants, as well as to any supplemental/alternate phone numbers identified by Plaintiffs' counsel or a third-party administrator through an update or assignment procedure.

4. If Putative Collective Members decide to join the collective action, they shall return their signed consent forms within sixty (60) days (postmarked, received, or completed via an electronic signature) after the date on which the Notice forms are mailed. The court approves and adopts Plaintiff's proposed Consent Form. Putative Collective Members may execute/return their consent forms either manually or electronically. Plaintiffs' counsel will file any executed consent forms with the court no later than twenty-one (21) days after the close of the 60-day opt-in period.

5. At the thirtieth (30th) day of the 60-day opt-in period, Plaintiffs' counsel or the third-party administrator hired by Plaintiffs' counsel to administer the notice shall send a reminder notice to the Putative Collective Members who have not yet returned their consent forms.

Signed at Houston, Texas, on March 15, 2024.



Peter Bray
United States Magistrate Judge

TIME-SENSITIVE, COURT AUTHORIZED NOTICE

THIS IS NOT AN ADVERTISEMENT FROM A LAWYER

Hardin, et al. v. The Texian Group, Inc., Case No. H-22-111,
In the United States District Court for the Southern District of Texas

SEEKING

NOTICE OF COLLECTIVE ACTION LAWSUIT FOR UNPAID OVERTIME

at any time from June 15, 2019, through the present

TO: All current and former inspectors employed by The Texian Group, Inc. ("Texian") who either (1) were required to use timesheets that only reported the number of days worked but not the number of hours worked per day, and/or (2) earned a per diem ~~at any time from June 15, 2019 through the present.~~

RE: Collective action lawsuit seeking unpaid overtime, back wages, and other damages.

DEADLINE TO RETURN CONSENT FORM: «60 days from mailing»

1. Why Are You Getting This Notice?

A collective action lawsuit was filed on behalf of ^{of certain} all inspectors who worked for Texian ^{beginning on June 15, 2019.} for violations of the Fair Labor Standards Act ("FLSA") ^{alleging} Texian failed to pay overtime compensation in accordance with federal law. Texian's records identified you as a potential member of the collective action. ^{is alleged to have}

The lawsuit alleges

The individual bringing this lawsuit alleges that Texian failed to pay inspectors for all overtime hours worked through the use of timesheets that only allowed inspectors to report the number of days worked per week, rather than the number of hours worked, resulting in unpaid overtime hours. He also alleges that Texian failed to incorporate per diems into inspectors' regular rates of pay which resulted in under-calculation of inspectors' overtime rates of pay. He seeks unpaid overtime in the form of back wages, double damages, attorneys' fees, and litigation costs on your behalf for all hours worked in excess of 40 in a workweek.

Texian denies the claims and maintains that it paid all of its inspectors appropriately as required by federal law. The Court has not ruled which party will ultimately prevail in this Lawsuit but has ordered that this notice be sent to you to inform you of your legal rights and ability to make a claim for unpaid overtime wages. By returning a Consent to Join Wage Claim Form, you can make a claim to recover damages under federal law during the time period of June 15, 2019 to the present.

3. What Are Your Options?

If you want to join this Lawsuit and make a claim for unpaid overtime wages, you must read, sign, and return the attached Consent to Join Wage Claim Form by «60 days from date of mailing». You may return your Consent to Join Wage Claim Form online at «Hyperlink», or by filling out the attached form and returning it by mail, email, or fax to:

Overtime Lawsuit Against Texian (Hardin)

JOSEPHSON DUNLAP, LLP

11 Greenway Plaza, Suite 3050

Houston, Texas 77046

Telephone: (713) 352-1100 • Fax: (713) 352-3300

E-mail: info@mybackwages.com

You may also contact an attorney of your choice.

If you do not want to join this lawsuit, you do not need to take any further action.

4. Effect of Making A Claim For Unpaid Overtime Wages.

If you return a Consent to Join Wage Claim form, you will join other inspectors who worked for Texian and have already made a claim for unpaid overtime wages. If this case is not successful, you will receive nothing and you will not be responsible for any of the case costs, expenses, or attorneys' fees. If you decide to join this lawsuit, you may be selected to answer written questions under oath, provide documents relating to your claim, answer questions verbally under oath, and/or testify in court at trial or a hearing. This may or may not be likely depending on your circumstances.

You may withdraw your consent to join this case voluntarily at a later time, if you choose to do so. If you do not wish to be a part of the collective action lawsuit, you do not need to do anything. The decision to join is entirely yours.

Because the FLSA only allows workers to recover up to the past three years of back wages, eligible workers who do not return a Consent to Join Wage Claim Form may lose their rights to recover overtime for work performed in the past for Texian unless bringing a new, separate case. *seek*

5. Retaliation and Blackballing Is Prohibited

This Court and federal law prohibits anyone from firing or in any other way discriminating against you because you decide to join or participate in this case. These laws forbid Texian, Texian's clients, or its associated companies from retaliating or blackballing anyone for participating in this lawsuit.

If you suspect any retaliation for participating in this suit, please immediately *you should* call the attorneys listed below.

6. Your Legal Representation If You Join.

If you choose to join this collective action lawsuit, your attorney will be Michael A. Josephson, Andrew W. Dunlap, and William M. Hogg of the law firm JOSEPHSON & DUNLAP, LLP, and Richard J. (Rex) Burch of the law firm of BRUCKNER BURCH PLLC. Their contact information is listed below.

7. How Can You Receive More Information?

If you have any questions about the collective action lawsuit or your legal rights, you should contact counsel for the class of Texian employees directly at:

Andrew W. Dunlap
William M. Hogg
JOSEPHSON DUNLAP, LLP
11 Greenway Plaza, Ste. 3050
Houston, Texas 77046
Phone: 713.352.1100
Fax: 713.352.3300
E-mail: info@mybackwages.com

Richard J. (Rex) Burch
BRUCKNER BURCH PLLC
11 Greenway Plaza, Ste. 3025
Houston, Texas 77046
Phone: 713.877.8788
Fax: 713.877.8065
Email: frontdesk@brucknerburch.com

You should not contact Texian or its attorneys about this lawsuit or seek advice from them on whether you should participate. Any information you provide Texian or its attorneys may be used against you or the other workers who decide to join this case.

You should not contact the Court to discuss this matter.

8. You Have Sixty (60) Days to Join this Lawsuit.

Your determination of whether to take action should be made promptly. Because the law only allows a person to recover up to three (3) years of back wages from the date the Consent to Join Wage Claim Form is filed, time is of the essence in submitting this form if you wish to have the opportunity to make a full recovery. All consent forms must be received no later than «60 days from date of mailing», which is sixty (60) days after this Notice was mailed to you. A Consent to Join Wage Claim Form is enclosed with a self-addressed stamped envelope.

CONSENT TO JOIN WAGE CLAIM LAWSUIT AGAINST THE TEXIAN GROUP

Printed Name: _____

1. I hereby consent to join the collective action lawsuit filed against Texian to pursue my claims of unpaid overtime during the time that I worked for Texian.
2. I understand that this lawsuit is brought under the Fair Labor Standards Act (FLSA), and I consent to be bound by the Court's decision with respect to the FLSA claim(s) at issue.
3. I confirm that I have worked for Texian as an inspector at some point since June 15, 2019.
4. I designate the law firm and attorneys at JOSEPHSON DUNLAP LLP and BRUCKNER BURCH PLLC as my attorneys to prosecute my wage claims.
5. I consent to having Plaintiff Bradley Hardin and Plaintiff's Counsel make all decisions regarding the litigation, the method and manner of conducting this litigation, the terms of any potential settlement of this litigation, releasing of claims, entering into an agreement with Plaintiff's Counsel regarding attorneys' fees and costs, and all other matters pertaining to the lawsuit.
6. If needed, I authorize the Plaintiff's lawyers to use this consent to re-file my claim in a separate lawsuit or arbitration against Texian or its affiliated entities.

Signature: _____

Date Signed: _____

Please print or type the following information, which will be kept confidential:

Address

City/State/Zip

Home Telephone Number

Cell Phone Number

E-mail Address

Estimated Dates of Employment

Positions Held with Texian

Location(s) Worked for Texian

Supervisor(s)

Texian Customer(s) Worked for

Were you paid on a daily rate basis?

Did you earn per diems with Texian?

RETURN THIS FORM BY MAIL, EMAIL, OR FAX TO:

Overtime Lawsuit Against Texian (Hardin)

JOSEPHSON DUNLAP, LLP

11 Greenway Plaza, Suite 3050

Houston, Texas 77046

Telephone: 713.352.1100 · Fax: 713.352.3300

E-mail: info@mybackwages.com

PROPOSED EMAIL TO PUTATIVE COLLECTIVE MEMBERS

Subject: Notice of unpaid overtime collective action lawsuit against The Texian Group

Dear Texian inspector:

Attached is the Court-authorized Notice regarding a collective action lawsuit against The Texian Group alleging you are owed unpaid overtime wages pursuant to the Fair Labor Standards Act. You are receiving this e-mail because Texian's records indicate that you are eligible to participate in this collective action lawsuit seeking to recover unpaid overtime wages and your rights may be affected by its outcome. The attached Notice explains the steps you need to take if you want to join. You can review and sign the forms to join the case [here](#) «hyperlink».

If you have any questions, please feel free to contact me at «phone» or by e-mail at «email».
«Signature Block»

TEXT MESSAGE NOTICE TO POTENTIAL COLLECTIVE MEMBERS

“A lawsuit filed against Texian alleges that inspectors were not paid all overtime wages owed as required by the Fair Labor Standards Act. You are receiving this message because Texian's records indicate you are eligible to participate in the collective action seeking to recover unpaid overtime for these inspectors. The attached Court Approved Notice explains the steps necessary to join the action. You can review and sign the necessary forms [here](#) «hyperlink». If you have any questions, please feel free to contact me at «phone» or by e-mail at «email».”