

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

---

SILVIA BARRIENTOS MOLINA, on behalf of herself and all others similarly situated	:	
	:	
	:	2:16-cv-00859
Plaintiff,	:	
v.	:	
	:	
PERFECTION FOODS COMPANY, INC., MAXIMUM LABOR INC., HANH TRAN, and GLADYS CHAVEZ,	:	
	:	
Defendants.	:	

---

**STIPULATION AND ORDER**

Originating Plaintiff Silvia Barrientos Molina (“Plaintiff”) and Defendants Perfection Foods Company, Inc., Maximum Labor Inc., Hanh Tran, and Gladys Chavez (collectively “Defendants”), by and through their undersigned counsel, hereby **STIPULATE** as follows:

1. The following collective is conditionally certified pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b): All individuals who during any workweek since February 22, 2013 worked for Maximum Labor, Inc. and were assigned to work at the Perfection Foods Company, Inc. facility located at 3901 Old York Road, Philadelphia, PA. Defendants currently estimate that approximately 101 individuals (including the 16 individuals who already have opted in to this action) are included within this collective definition. Individuals falling within this definition are referred to as “Putative Collective Members.”

2. Defendants may move for decertification of the conditionally certified collective at any time. This stipulation shall not be construed as limiting Defendants’ rights (individually and collectively) in any manner, including, without limitation, their rights to move for

decertification or to otherwise assert that this action is inappropriate to proceed to trial as a collective action.

3. Plaintiff's class action claim under Federal Rule of Civil Procedure 23 is **WITHDRAWN**. However, the parties agree and acknowledge that Plaintiff and any other individuals who opt-in (or have already opted-in) to the FLSA collective join the entire action and, accordingly, pursue all legal claims asserted in the Complaint, including, *inter alia*, the Pennsylvania Minimum Wage Act ("PMWA") claim.

5. Within fourteen (14) calendar days of the Court's entry of this Order, counsel for Defendants Maximum Labor, Inc. and Gladys Chavez will email to Plaintiff's counsel an Excel spreadsheet containing the name and last known address of each Putative Collective Member. This list will be accompanied by a sworn declaration from Defendant Gladys Chavez attesting that the list is complete and includes all known Putative Collective Members.

6. Within twenty-one (21) calendar days of the Court's entry of this Order, Plaintiff's counsel will mail to all Putative Collective Members (other than those individuals who have already joined this case pursuant to 29 U.S.C. § 216(b)) finalized copies in both English and Spanish of the attached "Notice of Collective Action Lawsuit" form and "Consent to Join" form ("Consent Form"), in addition to a return envelope bearing Plaintiff's counsel's address (collectively the "Notice Package"). Plaintiff's counsel will pay all postage and printing costs associated with the preparation and mailing of the Notice Packages. If any Notice Package is returned as undeliverable, Plaintiff's counsel will make all reasonable efforts to update the address information and re-send the Notice Package.

7. In order to participate in this action, each putative Collective Member must complete his/her Consent Form and return it in an envelope postmarked on or before the deadline

indicated in the Notice Package, which will be set at forty-nine (49) calendar days after the initial mailing date (the “Notice Period”).

8. Plaintiff’s counsel will file with the Court each completed Consent Form within two (2) business days of receipt. Prior to filing, the parties’ counsel will confer in good faith to amicably resolve any disputes concerning the completeness or timeliness of any form.

9. During the Notice Period, Defendants will refrain from all communications with Putative Collective Members regarding the action and will not engage in any communications or actions intended to discourage participation in the action. If any Putative Collective Member initiates communications about the action with any Defendant, the Putative Collective Member will be referred to that Defendant’s counsel. Likewise, Plaintiff’s counsel will not affirmatively initiate any communication with Putative Collective Members other than through the notice process described in Paragraph, although nothing shall prohibit Plaintiff’s counsel from discussing the action with Putative Collective Members who affirmatively contact Plaintiff’s counsel with questions or requests for additional information.

10. The parties have agreed to a settlement conference with Judge Jacob P. Hart on April 19, 2017. Pursuant to this Court’s prior order (dkt. 47), all discovery and motion deadlines shall remain stayed pending the settlement conference. If the parties are unable to resolve the case, the parties will submit to the Court a proposed schedule for the completion of this litigation.

**FOR PLAINTIFF:**

/s/ R. Andrew Santillo  
R. Andrew Santillo, Esq.

March 1, 2017  
Date

/s/ Nadia Hewka  
Nadia Hewka, Esq.

March 1, 2017  
Date

**FOR DEFENDANTS PERFECTION FOODS COMPANY, INC. and HANH TRAN:**

/s/ Jason E. Reisman  
Jason E. Reisman, Esq.

March 1, 2017  
Date

**FOR DEFENDANTS MAXIMUM LABOR INC. and GLADYS CHAVEZ:**

/s/ Stephen C. Goldblum  
Stephen C. Goldblum, Esq.

March 1, 2017  
Date

**SO ORDERED** this 1 day of March, 2017.

  
\_\_\_\_\_  
Honorable Berle M. Schiller

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Molina, et al. v. Perfection Foods Company, Inc., et al., 2:16-cv-00859*  
United States District Court, Eastern District of Pennsylvania

**TO:** [INSERT NAME]

**PLEASE READ THIS NOTICE CAREFULLY**

**INTRODUCTION**

This Notice informs you of the existence of a lawsuit seeking unpaid wages under federal and state law. You may have a right to join in the lawsuit.

**DESCRIPTION OF THE LAWSUIT**

In February 2016, Silvia Barrientos Molina (“Plaintiff”) started this lawsuit against Perfection Foods Company, Inc., Maximum Labor Inc., Hanh Tran, and Gladys Chavez (“Defendants”). The lawsuit is proceeding in the United States District Court in Philadelphia, PA and is assigned to United States District Judge Berle M. Schiller.

The lawsuit concerns individuals who were assigned by Maximum Labor Inc. to work at the Perfection Foods production facility located at 3901 Old York Road in Philadelphia, PA. These individuals are called “Production Workers.”

The lawsuit alleges that Defendants did not pay Production Workers for all the hours that they worked at the Old York Road Facility. It also alleges that Production Workers did not get time and one-half pay when they worked over 40 hours in a week. The lawsuit seeks the recovery of unpaid wages, liquidated damages and attorney’s fees and expenses.

You have been identified as someone who worked at the Perfection Foods Old York Road Facility as a Production Workers and can join this lawsuit.

Defendants deny all of Plaintiff’s allegations and maintain that they properly paid Plaintiff and all other Production Workers all wages due for all compensable working time.

**The Court has not decided whether Plaintiff’s claims or Defendants’ defenses have merit, or whether any damages are owed to Plaintiff or other Production Workers, or if the case will be able to proceed on behalf of Production Workers as collective action. If the Court determines later in the lawsuit that it should not proceed as a collective action, your claim in this lawsuit may be dismissed and an individual claim on your behalf may have to be filed.”**

**RETALIATION PROHIBITED**

Federal law prohibits Perfection Foods/Maximum Labor from retaliating against you or punishing you because you decide to join this lawsuit.

You may join the lawsuit by completing the enclosed “Consent to Join” form and returning it in the enclosed envelope to Plaintiff’s lawyers at the following address:

Community Legal Services of Philadelphia  
1424 Chestnut Street  
Philadelphia, PA 19102-2505

Your return envelope must be postmarked by *[insert date 49 days after initial mailing date]*. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

### **EFFECT OF JOINING THE LAWSUIT**

If you join this lawsuit, you will designate Plaintiff as your representative and authorize Plaintiff to make decisions on your behalf regarding the litigation. You may also be required to provide documents or other information to the lawyers working on the case and may be required to sit for a deposition regarding your claim. Whether this is needed will be decided later in the case. Defendants may seek to have Plaintiffs dismissed from the case for failing to sufficiently participate in the litigation. You will be bound by any ruling or judgment the Court enters, whether favorable or unfavorable. If this case recovers money, you may be entitled to a payment in return for a release of your claim.

### **EFFECT OF NOT JOINING THE LAWSUIT**

If you do not join this case, you will retain any rights you may have under the law, including the right to bring a separate lawsuit against Defendant within the applicable statute of limitations period(s). You will not be bound by any ruling or judgment the Court enters. You will not have any responsibilities with respect to the case. However, if this case recovers money, you will not receive any payment.

### **YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you choose to join this lawsuit and do not retain your own attorney, you will be represented by Community Legal Services of Philadelphia, 1424 Chestnut Street, Philadelphia, PA 19102 (215-981-3749/www.clsphila.org) and Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025 (215-884-2491/www.winebrakelaw.com).

These lawyers have taken this case on a “contingency” basis. This means that if the case ultimately recovers money, these lawyers will ask the Court to award legal fees and costs for their work. If there is a settlement, these fees and costs may come from the total settlement amount payable to Plaintiff and the other Production Workers. If the case does not result in a recovery or settlement for Plaintiff or other Production Workers, these lawyers will not receive any money.

Please call the above law firms if you have any questions or desire any additional information about the lawsuit.

**THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT’S MERITS.**

