

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

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MICHAEL TREVORAH, <i>et al.</i> ,	:	3:16-cv-00492-JMM
Plaintiff,	:	
v.	:	
LINDE CORPORATION,	:	
Defendant.	:	

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**STIPULATION AND ORDER**

**NOW**, this 17th day of May, 2017, Originating Plaintiff Michael Trevorah (“Trevorah”) and Defendant Linde Corp. (“Linde”) **STIPULATE** as follows:

1. Plaintiff’s Motion for Conditional Certification (Doc. 63) is **WITHDRAWN AS MOOT**.
2. Pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), a putative collective comprised of the following individuals is conditionally certified:
  - a. The following 36 individuals who already have joined this action by filing consent forms with the Court: Kevin Allen; James Bailey; Andrew Bennett; William Best; Charles Berchem; Joseph Ciampi (deceased); Edward Connolly; Charles Crane; Michael Fetcho; Stacey Foss; John Giampietro; Jeff Gurns; Howard Jacoby; Kevin Keleher; Thomas Ladner; Samuel Liuzzo; Scott MacCollum; John Maroni; Danielle Maroni Sekula; Tanner Murphy; Randy

Myers; Jason Perez; Harry Puckett (deceased ); Thomas Schwartz; David Scalese; Dustin Scouton; Darrell Seaman; Norman Steidinger, Jr.; Scott Sutton; Jeremy Swartz; David Tisano; Michael Trevorah; Mark Vukson; Nathan Wilcha; Daniel Willis; and Thomas Zak.<sup>1</sup>

b. The following 32 individuals identified by counsel through the discovery process:

Patricia	Acker
Thomas	Astleford
Thomas	Bailey
Michael	Barber
Robert	Bayer
Edward	Bernard
Jerry	Corrigan
Thomas	Crescente
Anthony	Domiano
James	Dymond
Brian	Eltz
Joseph	Festa
Donald	Haines
Joseph	Jugan
Miroslaw	Kaczmarczyk
Patrick	Kemp
Albyn	Kochanski
James	Lambrou
George	Lee
Garry	Litts
Joshua	Long
William	Manganello

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<sup>1</sup> Pursuant to the Court's June 15, 2016 order, see Doc. 42, the *FLSA* claims of those individuals covered by the companion action styled Perez v. Linde Corporation, 3:16-cv-00492-JMM, are limited to the time period between March 22, 2013 and July 4, 2013 for purposes of the above-captioned action.

Joseph	Marlin
Roger	Myers
John	Padavan
Daniel	Saam Jr
John	Scofield
George	Spencer
George	Sprague
Brian	Striefsky
Robert	Tuttle
Daniel	Yelland

3. This Stipulation and Order does not relieve any obligation that Plaintiff may have to move for final certification of the conditionally certified FLSA collective or in any way preclude or limit a motion by Linde at the appropriate time seeking to decertify the conditionally certified FLSA collective or argument by Linde that collective litigation is wholly or partially improper.

4. Trevorah reserves his right to move for class certification of his Pennsylvania Minimum Wage Act claim pursuant to Federal Rule of Civil Procedure 23 in accordance with any schedule set by the Court. However, regardless of the outcome of any future class certification ruling, any of the 32 individuals listed in paragraph 2(b) above who do not join the FLSA collective by the deadline described in paragraph 7 below waive their right to pursue an FLSA claim in this action.

5. Within three (3) business days of the Court's entry of this Order, Linde's counsel will provide to Plaintiff's counsel the last known mailing address of each individual listed in paragraph 2(b) above.

6. Within five (5) business days of the Court's entry of this Order, Plaintiff's counsel will mail to each individual listed in paragraph 2(b) above finalized copies of the attached "Notice of Collective Action Lawsuit" form, the attached "Consent to Join" form, and a postage-paid 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 join the FLSA collective and preserve an FLSA claim in this action, any individual listed in paragraph 2(b) above 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 thirty-five (35) calendar days after the initial mailing date.

8. Plaintiff's counsel will file with the Court each completed Consent Form within three (3) business days of receipt.

9. With respect to each individual who already joined or will join the FLSA collective as confirmed by a timely consent form, the statute of limitations period applicable to his/her **FLSA claim** is tolled on the *earlier* of (i) the date on which his/her consent form was filed with the Court or (ii) the date on which the Court enters this Order. Plaintiffs will not seek any additional tolling of the FLSA limitations period.

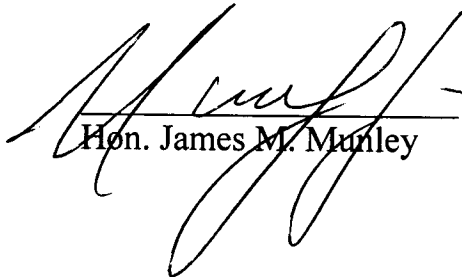
FOR PLAINTIFF:

/s/ Peter Winebrake  
Peter Winebrake, Esq.

FOR DEFENDANT:

/s/ Joseph Sileo  
Joseph Sileo, Esq.

**SO ORDERED:**

  
\_\_\_\_\_  
Hon. James M. Munley

5/22/17  
Date

Mailed: May \_\_, 2017

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Trevorah v. Linde Corporation, 3:16-cv-00492-JMM*  
United States District Court, Middle District of Pennsylvania

TO: **[INSERT NAME]**

**PLEASE READ THIS NOTICE CAREFULLY**

**INTRODUCTION**

This Notice tells you about a “collective” lawsuit against Linde Corporation (“Linde”). The lawsuit seeks allegedly unpaid overtime wages. Linde denies liability. The Judge has not yet decided who will win.

You are eligible to participate in the lawsuit. This Notice provides basic information about the lawsuit and explains how you can join the lawsuit. Please read this Notice carefully.

**DESCRIPTION OF THE LAWSUIT**

In March 2016, a Linde construction employee named Michael Trevorah started this lawsuit in the Federal Court in Scranton, PA. Since then, additional individuals have joined the lawsuit.

The lawsuit alleges that, during the time period between March 2013 and \_\_\_\_, Linde failed to pay Mr. Trevorah and similar employees the legally required overtime pay for all hours worked over 40 per week.

Linde denies that it violated any federal or state wage laws. According to Linde, Mr. Trevorah and similar employees are “exempt” from the overtime pay laws. Linde also argues that it otherwise complied with overtime pay laws.

The Judge has not yet decided who will win the lawsuit.

**RETALIATION PROHIBITED**

If you join the lawsuit, federal law prohibits Linde from retaliating against you as a result of your participation.

**HOW TO JOIN THE LAWSUIT**

You can join the lawsuit by completing the enclosed “Consent to Become Party Plaintiff” form and returning it in the enclosed envelope to the following address:

Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025

Your return envelope must be postmarked by **[insert 35 days after mailing]**.

You may also elect to not join the lawsuit.

**EFFECT OF JOINING THE LAWSUIT**

If you join the lawsuit, you will be bound by the Federal Judge's rulings on all issues, including the reasonableness of any settlement. If the lawsuit settles or the Judge rules in favor of the employees, you will be eligible to receive a money payment. If the Judge rules in favor of Linde, you will receive nothing.

**EFFECT OF NOT JOINING THE LAWSUIT**

If you do not join the lawsuit, you will not be affected by any judgment or settlement relating to the lawsuit.

**YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you join the lawsuit, you will be represented by the following law firms: (i) Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025 (Ph: 215-884-2491; Website: [www.winebrakelaw.com](http://www.winebrakelaw.com)); Crossover Law, PLLC, 1143 Northern Boulevard, #121, Clarks Summit, PA 18411 (Ph: 570-561-1080; Website: [www.crossoverlaw.com](http://www.crossoverlaw.com)).

You will not be required to pay any fees to the above law firms. The firms have taken this case on a "contingency" basis. If the lawsuit is unsuccessful, the firms will receive nothing. If the lawsuit results in a recovery, the firms will ask the Judge to award them legal fees separate and apart from your individual recovery.

Please feel free to call either of the above 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 MIDDLE DISTRICT OF PENNSYLVANIA.**

**THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.**

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

_____	:	
MICHAEL TREVORAH, on behalf of himself	:	
and similarly situated employees,	:	
Plaintiff,	:	3:16-cv-00492-JMM
v.	:	
	:	
LINDE CORPORATION,	:	
Defendant,	:	
_____	:	

**CONSENT TO BECOME PARTY PLAINTIFF**

I have read the accompanying document entitled "NOTICE OF COLLECTIVE ACTION LAWSUIT." I consent to participate in this action pursuant to Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b). I agree to be represented by Winebrake & Santillo, LLC (Dresher, PA) and Crossover Law, PLLC (Clarke Summit, PA). I understand that I will be bound by the judgment of the Court on all issues in this action, including the fairness of any settlement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Please Print Neatly)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**TO PARTICIPATE IN THE LAWSUIT, THE ENVELOPE ENCLOSING THIS FORM MUST BE POSTMARKED ON OR BEFORE [insert 35 days after mailing] AND MAILED TO:**

Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025