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

JENNY SHIPTOSKI, on behalf of
herself and similarly situated
employees,

Plaintiff,

v.

SMG GROUP, LLC,

Defendant.

3:16-cv-01216-RDM

FILED
SCRANTON

MAR 15 2018

PER  DEPUTY CLERK

STIPULATED ORDER

AND NOW, this 15th day of March, 2018, the Court, having recently entered orders granting Plaintiffs' conditional certification and tolling motions, see Docs. 40-41, hereby **ORDERS** the following:

- Per agreement of the parties, the conditionally certified FLSA collective is changed **from** (a) "All individuals who, during any time within the past three years, were employed by SMG Group, LLC or any of its affiliated companies as salaried Store Managers and classified as overtime-exempt" **to** (b) "All individuals who, during any time since September 15, 2013, were employed by SMG Group, LLC or any of its affiliated companies as salaried Store Managers and classified as overtime-exempt."¹ These individuals are referred to

¹ This modification accounts for the Court's recent order tolling the running of the FLSA statute of limitations period as of September 15, 2016. In addition, the Court recognizes that an earlier limitations period may apply to the FLSA claims of Originating Plaintiff Jenny Shiptoski and any current opt-in plaintiffs who joined the action prior to September 15, 2016.

herein as "Putative Collective Members."

2. The attached forms entitled "NOTICE OF COLLECTIVE ACTION LAWSUIT" and "CONSENT TO BECOME PARTY PLAINTIFF" are **APPROVED**. Plaintiffs' counsel shall mail the forms to all Putative Collective Members who have not already joined this action within five (5) business days of this Order. If any forms are returned by the Post Office as undeliverable, Plaintiffs' counsel shall work diligently to locate alternative mailing addresses and re-mail the forms to such alternative addresses.

AGREED this 14th day of March, 2018.

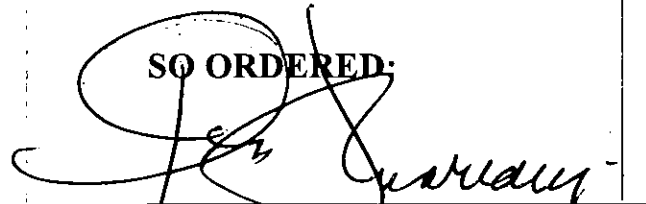
FOR DEFENDANT:

/s/ Brian P. McCafferty
Kenney & McCafferty, P.C.
1787 Sentry Parkway West
Building 18, Suite 410
Blue Bell, PA 19422

FOR PLAINTIFFS:

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

SO ORDERED:


Honorable Robert D. Mariani

[insert date]

NOTICE OF COLLECTIVE ACTION LAWSUIT

Shiptoski, et al. v. SMG Group, LLC, 3:16-cv-01216-RDM
United States District Court, Middle District of Pennsylvania

TO: [INSERT NAME]

PLEASE READ THIS NOTICE CAREFULLY

INTRODUCTION

This Notice informs you of the existence of a collective action lawsuit seeking unpaid overtime wages on behalf of individuals who, during any time after September 15, 2013, worked for SMG Group, LLC or any affiliated company as salaried store managers at convenience stores operating under names such as Joe's Kwik Marts.

You have a right to participate in the lawsuit.

DESCRIPTION OF THE LAWSUIT

In June 2016, a former store manager named Jenny Shiptoski ("Plaintiff") started this lawsuit against SMG Group, LLC ("the company"). Since then, five additional individuals have joined the lawsuit. The lawsuit is proceeding in the United States District Court in Scranton, PA and is assigned to Judge Robert D. Mariani.

The lawsuit alleges that the company violated federal and state wage laws by failing to make overtime payments to salaried store managers who were classified as exempt from overtime requirements by the company when those store managers worked over 40 hours in a week. The lawsuit seeks the recovery of unpaid overtime wages, liquidated damages, attorney's fees and costs.

The company denies all of the allegations and maintains that it properly paid all wages due to Plaintiff and all other store managers. The company asserts that its pay practices are legal.

The lawsuit is in its early stages. The Federal Court has not decided who will win this lawsuit.

RETALIATION PROHIBITED

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

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you will be bound by the judgment of the Federal Court on all issues, including the reasonableness of any settlement or any judgment regarding Plaintiff's wage claims entered in this case, whether favorable or unfavorable.

If you join the lawsuit, you may be required to participate in the "discovery" process by, for example, gathering and producing any work-related documents, answering some written

questions, and, possibly, sitting for a deposition. The law firm described below will represent you throughout the discovery process.

EFFECT OF NOT JOINING THE LAWSUIT

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

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025. The firm's website is www.winebrakelaw.com, and its phone number is (215) 884-2491.

You are not required to pay any fees to the above law firm. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

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

HOW TO JOIN THE LAWSUIT

You can 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:

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

Your return envelope must be postmarked by *[insert date 45 falling 45 days after mailing date]*. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE ROBERT D. MARIANI. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT'S MERITS.

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

JENNY SHIPTOSKI, *et al.*,

Plaintiff,

v.

3:16-cv-01216-RDM

SMG GROUP, LLC,

Defendant.

CONSENT TO BECOME PARTY PLAINTIFF

I consent, pursuant to Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b), to become a party plaintiff in the above-captioned action. I agree to be represented by Winebrake & Santillo, LLC (Dresher, PA), and 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

Return to the following address in an envelope postmarked on or before [INSERT DATE FALLING 45 DAYS AFTER MAILING DATE]:

WINEBRAKE & SANTILLO, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
Phone: (215) 884-2491
Fax: (215) 884-2492