

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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RONALD VIERA, DASHAMIR KAJA, JOSE
VAZQUEZ, and JOSE UMANA, individually and on
behalf of other employees similarly situated,

Case No. 1:17-cv-07243-CBA-RML

Plaintiff,

-against-

V.N.A. UTILITY CONTRACTING CO., INC., and
ANTHONY NACCARATO,

Defendants.

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**NOTICE OF YOUR RIGHT TO JOIN A LAWSUIT AGAINST V.N.A. UTILITY
CONTRACTING CO., INC. and ANTHONY NACCARATO**

December 6, 2018

Dear Current or Former Laborers for V.N.A. Utility Contracting Co., Inc.:

Enclosed is a Consent to Sue form allowing you to join a lawsuit that has been filed by current and former laborers on behalf of themselves and other laborers who work or have worked for V.N.A. Utility Contracting Co., Inc (“V.N.A.”). The lawsuit seeks unpaid overtime wages and liquidated damages. The lawsuit is being heard by the U.S. District Court for the Eastern District of New York.

The Court has entered an order authorizing Castillo Stephens LLP to send you this notice informing you of your right to file a Consent to Sue form in order to join this case. If you do not join this lawsuit, you will not be able to receive any share of any settlement or judgment that the Representatives may obtain under federal law. If you do join the lawsuit you will be bound by the

result, whether favorable or unfavorable. You will not be obligated to pay the lawyers for their costs or legal fees to participate, except that the Court may award the lawyers' fees either as a share of any fund awarded to the class or based on their billings to be paid by the Defendants if the case is successful. If the case is unsuccessful, the lawyers will be paid nothing, and you will not owe any money for the attorneys' costs or fees.

Most likely, if you choose to join this lawsuit, you will be required to provide information and answer questions relating to your employment with the Defendant. You may be required to testify at a deposition or at trial, respond to written questions, and produce documents relevant to the case.

What this lawsuit is about:

The lawsuit claims that the Defendants failed to pay the Plaintiffs overtime pay at the rate of time and one half for those work weeks where they worked in excess of forty hours in violation of the Federal Fair Labor Standards Act. The lawsuit seeks back pay and liquidated damages. The Defendants do not agree that they violated the law and the Judge who will hear the case has not made any decision yet about who is right. There are no assurances that any recovery will be awarded.

You should be aware that a claim under the FLSA must be brought within two years of the date the claim accrues, unless you can prove that your employer's violation was "willful," in which case the claim must be brought within three years.

Who can join this lawsuit:

If you are a current or former Laborer for V.N.A. who worked at any point in the three years preceding the filing of this lawsuit filed December 12, 2017, you may file a consent to sue

form, in order to have your federal FLSA claims heard as part of this case. The case is also brought as a class action under New York Labor Law for Representatives who worked from December 12, 2014, to the present; however, the availability of a class action to handle state claims has not yet been decided by the Court.

No retaliation:

The law prohibits retaliation against employees for exercising their rights under the FLSA. Therefore, you may not be terminated or subjected to discrimination in any manner because of your exercise of rights under the FLSA, including by joining this lawsuit. The Defendants have specifically assured the Court that they will not retaliate against any Representatives who opt-in to this case. Although the Defendants dispute the claims raised in the case, it recognizes the Representatives' right to pursue these claims.

How to join:

To join the case and be represented by the lawyers who are handling this case, you must fill out and return the enclosed Consent To Sue form by fax, e-mail or mail to: Castillo Stephens LLP, 305 Broadway, Suite 1200, New York, NY 10007. Fax: (212) 385-1401. E-mail: firm@castillostephens.com.

Your Consent form must be postmarked or delivered no later than February 4, 2019. If your signed Consent to Join form is not filed with the Court by February 4, 2019, you may not be allowed to participate in this lawsuit.

You have the right to be represented by your own lawyer if you wish. You do not have to be represented by Castillo Stephens LLP and may instead hire another attorney of your choosing, at your own expense, or represent yourself *pro se* without the assistance of a lawyers. If you intend

to retain your own lawyer or to represent yourself, you should indicate this on the “Consent to Join Lawsuit Form.

If you have any questions, you may call Castillo Stephens LLP at (212) 385-1400.

You may also contact Defendants’ attorneys, John Mastropietro, Esq. at telephone number (212) 943-9079, or by email at jpm@mastrolgpllc.com. If you opt-in to this action, it is not appropriate for you to contact Defendants’ attorneys directly.

Dated:

Castillo Stephens LLP
305 Broadway, Suite 1200
New York, NY 10007
(212) 385-1400
Fax: (212) 385-1401
firm@castillostephens.com

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE ROBERT M. LEVY, UNITED STATES MAGISTRATE JUDGE OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS’ CLAIMS OR OF THE DEFENSES. PLEASE DO NOT CONTACT THE COURT, THE COURT’S CLERK, OR THE JUDGE. THEY ARE NOT PERMITTED TO ADDRESS YOUR INQUIRIES OR QUESTIONS.

CONSENT TO SUE UNDER THE FLSA

I hereby consent to be a plaintiff in an action under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, to secure unpaid overtime pay, liquidated damages, attorneys' fees, costs and other relief arising out of my employment with V.N.A. Utility Contracting Co., Inc.

I authorize Castillo Stephens LLP, and any associated attorneys as well as any successors or assigns, to represent me with my claims by joining my claims to an existing lawsuit against Defendants and any other associated parties in which they represent plaintiffs. By signing and returning this consent to sue, I understand that, if accepted for representation, I will be represented by the above attorneys without prepayment of costs or attorneys' fees. I understand that if Plaintiffs are successful, costs expended by attorneys on my behalf will be deducted from my settlement or judgment amount on a pro rata basis with all other plaintiffs. I understand that the attorneys may petition the court for an award of fees and costs to be paid by defendants on my behalf. I understand that the fees retained by the attorneys will be either the amount received from the defendant or 1/3 of my gross settlement or judgment amount, whichever is greater.

Signature: _____

Dated: _____

Name: _____

Address: _____

Phone Number: _____

Email: _____

To be considered for representation send the completed form to Castillo Stephens LLP, 305 Broadway, Suite 1200, New York, NY 10007, or send it by fax to (212) 385-1401, or email it to firm@castillostephens.com. This Consent to Sue is not valid and not effective until you have received a receipt from Plaintiffs' Counsel indicating that it has been filed. If you have not received a receipt within 3 weeks from your transmission of the form to us, you must contact us by phone at (212) 385-1400