

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION**

**IN RE: PILGRIM'S PRIDE
FAIR LABOR STANDARDS
ACT LITIGATION**

**THIS DOCUMENT RELATES TO:
All Actions**

MDL DOCKET No. 1:07-CV-1832

JURY DEMANDED

ORDER

Plaintiffs filed a Consolidated Motion for Certification of a Collective Action and Court-Supervised Notice to Potential Collective Action Members. (Doc. 28). In this motion, Plaintiffs requested that the Court certify this case to proceed as a collective action, pursuant to 29 U.S.C. § 216(b), and direct that notice issue to potential collective action members. The Court granted this motion in part in an order dated March 13, 2008. (Doc. 42). The Court conditionally certified Plaintiffs' collective action but did not, at that time, authorize Plaintiffs to send notice of the suit to potential opt-in plaintiffs. Plaintiffs have since submitted their proposed notice and consent form to this Court. (Doc. 28, Exhibit 1).

In the March 13, 2008 order, the Court directed Defendant to state its objections to Plaintiffs' proposed notice. Defendant timely filed its objections. (Doc. 44). Plaintiffs filed a reply to Defendant's objections along with a modified proposed notice and consent form. (Doc. 46). Defendant then filed a Sur-Reply Concerning Objections to Plaintiffs' Proposed Court-Authorized Notice. (Doc. 48). Finally, Plaintiffs filed a Response to Defendant's Sur-Reply. (Doc. 50).

The Court has considered the well-presented arguments from both the Plaintiffs and Defendant. Further, after reviewing the Plaintiffs' proposed notice and consent form, the Court

has modified the notice to meet its approval. The modified, Court-approved notice is attached to this opinion. The parties are directed to review the Court-approved notice and to notify the Court within five days of any significant clerical errors in the notice. If the Court is not advised of any significant clerical errors, then, after the five days have passed, Plaintiffs are authorized to issue notice as directed below.

IT IS ORDERED that:

(1) The Court-approved notice shall issue to potential members of the proposed collective action, including the Alabama workers, who have held non-exempt positions working on or near the chicken processing line during the three years prior to the date of this Order.

(2) Pilgrim's Pride shall furnish to the notice administrator within 15 days of the date of this Order, a computer readable database containing the names, last known mailing addresses, telephone numbers, job titles and Social Security numbers of all Pilgrim's Pride hourly employees who have been employed by Pilgrim's Pride at any time during the three year period prior to the date of this Order.

(3) The Court has fashioned a notice of which it approves, and it shall be sent in approved form to all such similarly situated current and former employees of Pilgrim's Pride who have held non-exempt positions working on or near the chicken processing line during the three years prior to the date of this Order. The Court authorizes the translation of the notice into Spanish on the reverse.

(4) Pilgrim's Pride shall post a copy of the notice at all the facilities at issue in a place visible and accessible to chicken processing workers.

(5) Such persons who choose to opt-in to this action must return written consents to the Notice Administrator postmarked within 90 days of the date that the first notice is mailed.

The consent forms will be treated as filed with the Court on the date received by the notice administrator. Plaintiffs' counsel will file the consents with the Court. To be timely, consents must be filed with the Court no later than two weeks after the end of this 90-day notice period.

IT IS SO ORDERED, this 14th day of May, 2008.

/s/ Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge

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NOTICE

To: All persons who are or have been employed by Pilgrim's Pride Corporation as hourly chicken processing workers on or near the line at any time after May 14, 2005

Re: Lawsuit claiming that Pilgrim's Pride has failed to pay overtime in violation of federal law.

1. INTRODUCTION

This Notice informs you of your right to join a lawsuit against Pilgrim's Pride seeking overtime pay. This Notice advises you how to participate in this suit, if you choose to do so, and how your rights may be affected by this suit.

2. DESCRIPTION OF THE CASE

The Plaintiffs in this case claim that Pilgrim's Pride does not pay its hourly chicken processing workers for all the time they work putting on, taking off and cleaning safety and sanitary equipment, such as smocks, plastic aprons, ear plugs, safety glasses, hairnets, beard nets, plastic sleeve covers, arm guards, face masks, hard hats, rubber gloves, cotton liner gloves and metal cutting gloves. The Plaintiffs claim Pilgrim's Pride has violated the Fair Labor Standards Act. Pilgrim's Pride denies that it has violated the law in any respect.

Chicken processing employees who are paid hourly and have worked on or near the line at any of the following Pilgrim's Pride facilities are eligible to participate in this lawsuit:

DeQueen, Arkansas	Canton, Georgia	Marshville, North Carolina
El Dorado, Arkansas	Dalton, Georgia	Chattanooga, Tennessee
Athens, Alabama	Elberton, Georgia	Lufkin, Texas
Enterprise, Alabama	Gainesville, Georgia	Mt. Pleasant, Texas
Batesville, Arkansas	Mayfield, Kentucky	Nacogdoches, Texas
Clinton, Arkansas	Farmerville, Louisiana	Broadway, Virginia
Athens, Georgia	Natchitoches, Louisiana	Moorefield, West Virginia

The workers who are leading this case, as named plaintiffs, are Stephania Aaron, Alice Shepard, Dorothy Webb, Cynthia Rayborn, Erica Gresham, Freida Brown, Laronda Carruthers, Reneé Pates, John Chambers, Rose Mary Porter, LaShedira Traylor, and Melissa Hott (who are called the "Plaintiffs").

THE LAWYERS REPRESENTING YOU

Do I have a lawyer in this case?

The Court ordered that several firms may represent you and all collective action members, including:

Joseph M. Sellers, Plaintiffs' Lead Counsel
Jenny R. Yang
Cohen, Milstein, Hausfeld & Toll, P.L.L.C.
Washington, DC 20005 www.cmht.com

Kelly Tidwell, Plaintiffs' Liaison Counsel
Patton Tidwell & Schroeder, L.L.P.
Texarkana, Texas

Additional lawyers include:

William S. Hommel, Tyler, TX • George Chandler, Lufkin, TX • Peter H. Burke, Burke, Harvey & Frankowski, LLC, Birmingham, AL • Robert Camp, Cochran Firm, PC, Birmingham, AL • Preyesh Maniklal, Maniklal & Dennis, LLP, Atlanta, GA • Robert L. Salim, Natchitoches, LA • Philip R. Russ, Jerry McLaughlin, Amarillo, TX • A. Craig Eiland, Galveston, TX • David Moskowitz, Richard Celler, Morgan & Morgan, Atlanta, GA and Ft. Lauderdale, FL • Pete Winebrake, Dresher, PA

If you have any questions, or wish to reach any of the Plaintiffs' lawyers, you may call the toll free number 1-800-262-8077.

YOUR RIGHT TO PARTICIPATE IN THIS ACTION

You have been identified as a current or former chicken processing worker at Pilgrim's Pride. As such, you are eligible to join this action by following the instructions below.

3. HOW TO JOIN THIS CASE

Enclosed with this Notice is (1) a form entitled: Notice of Consent, and (2) an envelope, postage paid, addressed to the Notice Administrator. If you decide to join this case, you must complete and sign the Notice of Consent form and mail it to:

Notice Administrator
[Insert Address]

The Plaintiffs' lawyers will file your Notice of Consent with the Court.

YOU MUST RETURN THE NOTICE OF CONSENT BY MAIL WITH A POSTMARK ON OR BEFORE [INSERT DATE ____ 90 days after notice is mailed]. If your completed Notice of Consent is not postmarked on or before that date, you will not be allowed to join this case.

4. THE IMPORTANCE OF ACTING PROMPTLY

The federal law governing this case sets time limits on the right to recover unpaid overtime pay. The time within which you may participate in this lawsuit will pass, and you may be forever barred from pursuing a claim for unpaid overtime, if you do not complete the Notice of Consent and return it to the Plaintiffs' lawyers, identified above, with a postmark on or before [INSERT DATE ____.]

5. PROTECTION AGAINST RETALIATION

Federal law prohibits Pilgrim's Pride from retaliating or discriminating against you in any way if you choose to take part in this case. The Court will not tolerate any such retaliation or discrimination. Federal law also prohibits Pilgrim's Pride from pressuring or coercing you not to join this case. If you feel you have been pressured not to join this case—or retaliated against by Pilgrim's Pride or one of its employees because

you have decided to join this case—then you should contact the lawyers for the Plaintiffs at the toll free number **800-262-8077**. Counsel for Pilgrim’s Pride may not communicate with you directly or indirectly about your claim in this case.

6. THE LEGAL EFFECT OF JOINING OR NOT JOINING THIS CASE

If you choose to join this case, you will be bound by any and all rulings by the Court, whether they are favorable or unfavorable to you. While this suit is proceeding, you may be required to provide information, appear for deposition, and/or testify in court. **Regardless of whether or not you win this case, you will not be required to pay attorneys’ fees or costs out of your own pocket.** The lawyers for the Plaintiffs will be paid only if the Plaintiffs win or Pilgrim’s Pride settles the case. If that happens, these fees will either be paid by Pilgrim’s Pride, or paid out of any settlement fund, or both, as the Court directs. Plaintiffs’ counsel will not ask the Court for more than one-third of your recovery. If there is no recovery, there will be no lawyers’ fees paid to the lawyers.

If you do not join this case, you may not share in any money damages that the Plaintiffs may win.

If you decide not to join this case, you will not be affected by any Court rulings, favorable or unfavorable, in this case. You will not receive any money obtained in this case if Plaintiffs win. You are free to consult a lawyer regarding whether or not you can file your own lawsuit.

7. WHAT ABOUT IMMIGRATION STATUS?

Your immigration status will not be the subject of this lawsuit. You are entitled to seek a recovery regardless of your immigration status.

8. FOR MORE INFORMATION CONTACT PLAINTIFFS’ LAWYERS

If you have any questions about your rights concerning this case, you should contact the Plaintiffs’ lawyers **by calling the toll free number 1-800-262-8077** or by sending an email to the Plaintiffs’ lawyers at overtime@cmht.com.

9. NO OPINION EXPRESSED AS TO THE MERITS OF THE CASE

This Notice is issued for the sole purpose of determining who wishes to participate in this case. Although the Court has authorized the issuance of this Notice, the Court has not, at this time, made a determination as to the merits of Plaintiffs’ claims or the defenses of Pilgrim’s Pride in this case.

CONSENT TO JOIN ACTION

I have been employed by Pilgrim's Pride Corporation, or one of its subsidiary or predecessor companies (collectively "Pilgrim's Pride"), working on or near the chicken processing line at any time after May 14, 2005. I consent to join this action against Pilgrim's Pride under the Fair Labor Standards Act, which claims that chicken processing workers were not paid by Pilgrim's Pride for all hours worked. I choose to be represented in this matter by the lawyers of Cohen Milstein Hausfeld & Toll, P.L.L.C., who represent the collective action members, and the other lawyers associated with them. I authorize my attorneys to take any steps necessary to pursue any claims, including filing new lawsuits. By joining this litigation, I agree to be represented by those Plaintiffs who have been or will be named in the litigation that my counsel has filed, to the fullest extent possible under applicable laws, to make decisions on my behalf concerning all matters relating to this litigation, including the method and manner of conducting and resolving the litigation, and the terms of representation by the attorneys.

Print Name: _____

Signature: _____ Date signed: _____

Plant Location: _____

Home Address: _____

Phone Number(s): _____

RETURN THIS FORM BY MAIL TO:

Notice Administrator

[Insert Address]