

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSEPH E. THOMAS, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

BILL WISE’S EXCAVATING,
INC., a Delaware Corporation

Defendant.

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: Case No: 2:25-cv-00225
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: Hon. J. Nicholas Ranjan
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NOTICE OF RIGHT TO JOIN LAWSUIT
THIS IS NOT A LAWSUIT AGAINST YOU
READ THIS NOTICE CAREFULLY – YOUR LEGAL RIGHTS MAY BE AFFECTED

TO: *All Hourly Laborers and CBM Drivers who worked for Bill Wise’s Excavating, Inc. since August 8, 2021.*

RE: LAWSUIT FOR UNPAID WAGES UNDER THE FAIR LABOR STANDARDS ACT

1. INTRODUCTION

This Notice is to inform you about a lawsuit in which you may be eligible to make a claim for damages under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, to advise you of how your rights may be affected by this Lawsuit, and to notify you of the procedure for joining this Lawsuit, if you are eligible and so choose.

2. DESCRIPTION OF THE LAWSUIT

Plaintiff Joseph E. Thomas (“Plaintiff”) filed this action against Bill Wise’s Excavating, Inc. (“Defendant”) on behalf of himself and all other current and former Hourly Laborers and CBM drivers (collectively “Hourly Laborers”) who worked for Defendant. Plaintiff alleges that Defendant failed to pay its Hourly Laborers for work performed in excess of forty (40) hours per week. More specifically, Plaintiff alleges that Defendant willfully violated the FLSA by allowing its Hourly Laborers to perform unpaid work before and after their scheduled shifts, but failed to pay for that work.

Plaintiff alleges that he and all other Hourly Laborers and CBM Drivers are entitled to damages under the FLSA.

Defendant disputes Plaintiff's allegations and denies that it failed to pay overtime wages in violation of the FLSA. It maintains that it properly paid its Hourly Laborers and CBM Drivers for all of the time that they reported that they worked and denies that it willfully violated the FLSA.

3. PERSONS ELIGIBLE TO JOIN THE LAWSUIT

If you worked for Bill Wise's Excavating, Inc. as an Hourly Laborer or CBM Driver at any time since August 8, 2021, you are eligible to join this Lawsuit.

4. NO OPINION EXPRESSED AS TO MERITS OF LAWSUIT

This Notice is meant only to provide eligible individuals information about their right to join this Lawsuit if they wish. This litigation is in the early pretrial stage and no determinations of liability have been made.

Although the Court authorized this Notice to be posted, **the Court takes no direct or indirect position regarding any claims or defenses** and there is no assurance that the Court will grant or deny any relief in this case. The Court has not yet made any decision regarding the merits of the parties' claims or defenses.

5. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

If you meet the definition for the Collective group identified in Section 3, you are eligible to participate in this Lawsuit.

There is no cost to you to participate, but there is no guarantee of any recovery either. If a violation of the FLSA is proven, you may be eligible to recover damages as allowed by law.

It is entirely your own decision whether to join this Lawsuit.

6. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this Lawsuit, you will be a party to this litigation. That means that you and the Defendant will be bound by any ruling, settlement, or judgment on any claim you may have under the FLSA, whether favorable or unfavorable. That also means, if Plaintiff wins or settles, you may be eligible to share in any monetary award; if Plaintiff loses, no money will be awarded, and you will not be able to file another lawsuit regarding the specific matters raised in this Lawsuit.

While this Lawsuit is proceeding, there is a possibility that you will be required to respond under oath to written questions, to have your deposition taken under oath, to produce documents, and/or to testify in court at a trial or hearing at the U.S. District Courthouse in Pittsburgh, Pennsylvania.

By joining this Lawsuit, you are designating the attorneys identified in Section 7 to represent your interest. In addition, you agree that the named Plaintiff may make decisions on your behalf regarding this Lawsuit, including the manner and method of conducting the suit. If you elect to voluntarily join this Lawsuit, you are designating the named Plaintiff as your agent to make

decisions on your behalf in this Lawsuit and agreeing that the decisions and agreements made by the named Plaintiff will be binding on you.

The Fair Labor Standards Act contains a limitations period of at least two years and potentially up to three years for the filing of a claim for unpaid overtime wages, after which the claim is forever barred. The statute of limitations on your claim for unpaid overtime wages will not stop running unless and until you elect to submit the Consent Form and that form is filed with the Court. If you decide not to submit a Consent Form in this Lawsuit, you may consult with your own attorney as to how the statute of limitations applies to any potential claim.

7. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this Lawsuit, you will not be affected or bound by any judgment, favorable or unfavorable, on any claims brought under the FLSA alleged in this Lawsuit. You will retain all rights, if any, that you may have under the FLSA.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you join the Lawsuit, the attorneys retained to represent the Plaintiff and the Collective group are:

Jesse L. Young, Esq.
SOMMERS SCHWARTZ, P.C.
141 East Michigan Ave., Ste. 600
Kalamazoo, Michigan 49007
Phone: (269) 250-7500
Email: jyoung@sommerspc.com

Kathryn E. Milz, Esq.
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Southfield, Michigan 48076
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Gary F. Lynch
LYNCH CARPENTER LLP
1133 Penn Avenue, 5th Floor
Pittsburgh, PA 15222
Phone: (412) 322-9243
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Jonathan Melmed, Esq.
Meghan Higday, Esq.
MELMED LAW GROUP P.C.
1801 Century Park East
Suite 850
Los Angeles, CA 90067
Phone: (310) 824-3828
Email: jm@melmedlaw.com
Email: mh@melmedlaw.com

If you choose to join this Lawsuit, the attorneys listed above will represent you unless you obtain your own attorney to file your own separate case. You are not required to pay attorneys' fees or court costs at this time. If Plaintiff prevails, Plaintiff's counsel will seek an order requiring Defendant to pay their reasonable attorneys' fees and expenses.

8. HOW TO JOIN THIS LAWSUIT

If you wish to join this Lawsuit, you must complete, sign, and mail, fax, or email the Consent Form to:

Thomas v. Bill Wise's Excavating, Inc.
c/o Atticus Administration
PO Box 64053
St. Paul, MN 55164
BillWisesExcavatingLawsuit@atticusadmin.com
Phone: +1 800-672-5015
Fax: 888-326-6411

Your signed Consent Form must be completed and postmarked by **March 23, 2026**, for you to be eligible to participate in this Lawsuit.

You may also submit the Consent to Join Form by clicking the link below:

www.AtticusConsentToJoin.com

Plaintiff's counsel will file your completed Consent Form with the Court upon receipt. Until the Consent Form is filed with the Court, the statute of limitations ordinarily continues to run, and you will not be entitled to any unpaid wages for the days during which you delay sending in your Consent Form.

9. DEADLINE

Your completed Consent Form must be postmarked or otherwise submitted by **March 23, 2026** in order to be eligible to participate in the Lawsuit. If you have already submitted a Consent Form for this case prior to receiving this Notice, then you do not need to submit another one at this time.

10. NO RETALIATION PERMITTED

The FLSA prohibits employers from discriminating or retaliating against any person for filing a lawsuit, a claim for compensation, assisting or testifying in a lawsuit under the FLSA, or participating in a proceeding or exercising rights under the FLSA.

11. FURTHER INFORMATION

For further information about this Lawsuit, you may contact Plaintiff's Counsel by mail at the address listed above.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS LAWSUIT

CONSENT TO JOIN

I work or worked for Bill Wise’s Excavating as an Hourly Laborer or CBM Driver at some point since August 8, 2021.

I choose to participate in the above-captioned lawsuit to recover unpaid overtime wages for off-the-clock work under the federal Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), and other relief under the law.

I choose to be represented by the named Plaintiff, and Sommers Schwartz, P.C., Melmed Law Group P.C., and Lynch Carpenter LLP (“Plaintiff’s Counsel”). I agree to be bound by their decisions in the litigation and by any adjudication of this action by a court, whether it is favorable or unfavorable. I understand that reasonable costs expended by Plaintiff’s Counsel on my behalf will be deducted from any settlement or judgment amount on a pro-rata basis among all other plaintiffs. I understand that Plaintiff’s Counsel will petition the Court to award them attorneys’ fees from any judgment.

Print Name: _____

Signature: _____

Date: _____