

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Jose Barragan Contreras, Juan Alonzo Orellana,
and Jorge Yepez

Individually, and on behalf of all others similarly
situated as Class Representatives,

Plaintiffs,

v.

Rosann Landscape Corp., Rosann Land
Improvement Ltd., A.F.A. Management Corp.,
and Ana Maria Birlescu

Defendants.

Case No.: 17-cv-06453 (CS)

CLASS AND REPRESENTATIVE
ACTION

This notice and its contents have been authorized by the United States District Court for the Southern District of New York, The Honorable Cathy Seibel, United States District Judge. The Court has taken no position regarding the merits of Plaintiffs' claims or Defendants' defenses.

This is a court authorized notice. This is not a solicitation from a lawyer.

NOTICE OF CLASS ACTION

To: All landscaping, grounds keeping, and maintenance workers employed by Rosann Landscape Corp., Rosann Land Improvement Ltd., A.F.A. Management Corp., and/or Ana Maria Birlescu ("Defendants"), at any time after August 24, 2011.

The purpose of this Notice is to inform you that there is a class action lawsuit in which you may be a "Class Member" if you worked for any of the Defendants at any time after August 24, 2011 (including now), to advise you of how your rights may be affected by this lawsuit, and to instruct you on your options for participating in this lawsuit.

It is illegal for Defendants to fire you, discipline you, or retaliate against you in any way because you participate in this case or because you exercise your rights to recover your earned wages.

YOUR IMMIGRATION STATUS IS NOT AN ISSUE IN THE CASE AND WILL NOT AFFECT YOUR RIGHT TO RECOVER OWED WAGES.

1. **INTRODUCTION**

The purpose of this Notice is to inform you of a class action lawsuit against Defendants Rosann Landscape Corp., Rosann Land Improvement Ltd., A.F.A. Management Corp., and Ana Maria Birlescu brought by Plaintiffs Jose Barragan Contreras, Juan Alonzo Orellana, and Jorge Yopez. The Court has determined that you may be similarly situated to the Plaintiffs. Therefore, the Court has ordered that this notice be sent to you, to explain what the lawsuit is about.

Please note that the Court has **not** ruled on the merits of the lawsuit. The Court has only ruled that it is important that you be notified about this lawsuit so that you can determine whether you wish to exclude yourself from it.

2. **WHAT IS THE LAWSUIT ABOUT?**

The Plaintiffs worked for Defendants as landscaping, grounds keeping, and maintenance employees. They allege that they were not paid an overtime premium when they worked more than 40 hours in a week; were not paid at all for work they did outside of their scheduled hours; and did not receive proper notification of their wage rates. The Plaintiffs bring these claims as “class action” claims on behalf of themselves and other people who worked for Defendants. The lawsuit seeks to recover owed wages and damages for all class members, under the New York Labor Law. The lawsuit also asks that Defendants be required to pay the Plaintiffs’ costs and attorneys’ fees. Defendants deny the Plaintiffs’ allegations and deny that they owe any money.

3. **WHY AM I RECEIVING THIS NOTICE?**

You are receiving this Notice because the lawyers for Plaintiffs and/or Defendants have information that indicates that you may be a Class Member in this case. All persons who worked for any of the Defendants at any time after August 24, 2011, are Class Members. If you know other workers who worked for any of the Defendants after August 24, 2011 and did not get a copy of this Notice, you may tell them to call Plaintiffs’ lawyers (“Class Counsel”) at (845) 331-6615 for an explanation of their rights and to get a copy of the Notice.

4. **WHO CAN PARTICIPATE IN THE LAWSUIT?**

If you worked as a landscaping, grounds keeping, or maintenance employee for Defendants at any time after August 24, 2011, including now, you are a Class Member. Your immigration status and work authorization status do not matter for this lawsuit.

5. **YOUR RIGHTS MAY BE AFFECTED BY THIS LAWSUIT.**

This Notice is given to you because you may be a Class Member. As a Class Member, your rights may be affected by this lawsuit. If you were an employee of any of the Defendants between August 24, 2011 and now, you will be included in the Class, unless you request to be excluded in the manner set forth below. If you do nothing, you will remain a Class Member. If you remain a Class Member, you will be bound by any judgment in this lawsuit, whether favorable or unfavorable. If there is a recovery, you will be entitled to share in the proceeds, less

costs and attorneys' fees to be reimbursed out of any such recovery, under such terms as the Court may direct. THERE IS NO ASSURANCE THAT A JUDGMENT WILL BE GRANTED, OR IF GRANTED, THAT IT WILL BE COLLECTED IN WHOLE OR IN PART.

6. **CLASS REPRESENTATIVES**

The Court has designated Plaintiffs Jose Barragan Contreras, Juan Alonzo Orellana, and Jorge Yopez as Class Representatives. As a Class Member, the decisions and agreements made and entered into by the Class Representatives will be binding on you.

7. **WHAT ARE MY OPTIONS?**

If you worked for any of the Defendants during the relevant time period, as described above, you have several options:

- (1) If you want to be a Class Member, you do not need to do anything. If the Plaintiffs win a monetary judgment or reach a settlement agreement, you may be able to receive money from that judgment or settlement. You will not be required to pay any fee for services provided by Class Counsel, but a portion of the recovery may be approved by the Court to be paid to Class Counsel as fees and costs.
- (2) If you want to be a Class Member, but you do not want Class Counsel to be your lawyers, you can hire your own lawyer to represent you for these claims. If you hire your own lawyer, that lawyer should advise you on how to participate in this case and what this will mean for you.
- (3) If you do not want to be a Class Member, you may exclude yourself from the Class ("opt out") by mailing a signed and dated Statement of Exclusion to Class Counsel, postmarked no later than March 29, 2019. If you opt out of the case, you will have no right to recover any money under any judgment or settlement in this lawsuit and will not be bound by any such judgment or settlement unless you appear through your own counsel. If you do not "opt out," you will be included in the Class and will be bound by any judgment in this lawsuit, favorable or unfavorable.

8. **WHO ARE THE ATTORNEYS FOR THE PLAINTIFF CLASS?**

The attorneys who have been appointed Class Counsel and who will represent you, unless you opt out, are:

Robert McCreanor, Esq.
Maureen Hussain, Esq.
WORKER JUSTICE CENTER OF NEW YORK
9 Main Street
Kingston, NY 12401

(845) 331-6615
rmccreanor@wjcny.org
mhussain@wjcny.org

David Tykulsker
DAVID TYKULSKER & ASSOCIATES
161 Walnut St.
Montclair, NJ 07042
(973) 509-9292
David@dtesq.com

If you have any questions or information regarding the lawsuit, you may contact Class Counsel.

If there is no recovery, you will not be required to pay Class Counsel for any of their work. If there is a recovery, Class Counsel will receive whatever attorneys' fees and costs the Court orders. The fees and costs may be subtracted from the recovery obtained from the Defendants or they may be paid separately by the Defendants.

9. **COURT DOCUMENTS ARE AVAILABLE FOR INSPECTION.**

The pleadings and other papers filed in this action are available for inspection in the office of the Clerk of the Court during regular business hours.

Clerk of the Court
The Hon. Charles L. Brieant Jr. Federal Building and U.S. Courthouse
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4150

Please do NOT call the Court with questions about the case. Any questions may be directed to Class Counsel by calling (845) 331-6615 or (973) 509-9292.

Dated: January 29, 2019

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE CATHY SEIBEL, UNITED STATES DISTRICT JUDGE OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE NAMED PLAINTIFFS' CLAIMS OR OF THE DEFENDANTS' DEFENSES.

