

## **NOTICE OF COLLECTIVE ACTION**

**THIS IS NOT A LAWSUIT AGAINST YOU. PLEASE READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS MAY BE AFFECTED.**

**TO:** All persons who have worked for Pure Energy Services (USA), Inc. (also referred to in this Notice as “Pure Energy” or “Defendant”) anywhere in the United States during the past three years who were paid a “day rate” for work in the field and who worked more than forty (40) hours in a work week in the position of day rate employee in the field.

**RE:** Fair Labor Standards Act (“FLSA”) Lawsuit Filed Against Pure Energy Services (USA), Inc.

### **1. INTRODUCTION**

The purpose of this Notice is to inform you of the existence of a collective action lawsuit in which you potentially are “similarly situated to the named Plaintiffs, to advise you of how your rights may be affected by this lawsuit, and to instruct you on the procedure for participating in this lawsuit if you so desire.

As described more fully below, if you are eligible and wish to participate in this collective action, you must timely complete and submit the “Consent to Join” form and questionnaire attached to this notice.

### **2. DESCRIPTION OF THE LAWSUIT**

On June 12, 2007, ten plaintiffs filed a Complaint in the U.S. District Court for the District of Wyoming against Pure Energy alleging that plaintiffs had worked more than forty (40) hours in a work week and had not been paid overtime owed them under the Fair Labor Standards Act.

More specifically, the lawsuit alleges that plaintiffs were compensated at a flat rate for each twelve (12) hour shift worked and that the flat rate did not compensate plaintiffs for overtime work at time and one-half their regular rate for all hours worked over forty (40) in a work week as required by the Fair Labor Standards Act. “Plaintiffs contend that offer letters signed by some plaintiffs setting forth how the ‘day rate’ was calculated do not provide a defense to plaintiffs’ claim that overtime was not paid as required by the FLSA.” The lawsuit also alleges that on occasion, plaintiffs worked additional hours in the oil fields beyond their twelve-hour shift as dictated by the work. In addition, the suit alleges that plaintiffs worked additional hours attending mandatory meetings before or after their shifts which lasted from approximately thirty (30) minutes to approximately three hours. Further, the lawsuit alleges that those plaintiffs who worked as crew supervisors worked additional hours transporting themselves and crews to the oil fields as well as personal and company-owned tools, fuel and spare parts needed at the work site.

The lawsuit seeks unpaid overtime at time and one-half the regular rate calculated as required under the law for all hours worked over forty (40) in a work week. In addition, the lawsuit seeks “liquidated damages” in an equal amount to the unpaid overtime, appropriate interest, attorney’s fees and costs.

Plaintiffs seek recovery for a three-year statute of limitations period based on the willful violation of the law by Pure Energy. Under the FLSA, if plaintiffs prove a willful violation of the law, they may recover unpaid overtime for the three years prior to the date their “Consents to Join” the case are filed. In the absence of a willful violation the claim period is two (2) years.

Pure Energy denies that its employees were paid a flat rate that did not compensate employees for overtime. Pure Energy contends that nearly all employees signed offer letters stating that for a normal twelve (12) hour shift they would receive eight (8) hours at straight time and four (4) hours at time and one-half their straight time rate. Thus, Pure Energy believes employees were in fact paid overtime. Further, Pure Energy denies that any employee is due any compensation for driving a company vehicle to and from the job site. Pure Energy denies that there is any entitlement to liquidated damages or that the statute of limitations should be extended to three (3) years. Pure Energy denies that any claimed violation of the law was willful.

### **3. THE CURRENT STATE OF THIS LAWSUIT**

This lawsuit is in the very early stages of litigation. The Court has conditionally certified this case as a collective action and ordered this Notice to be sent to you.

If you do join, you may be required to participate in the “discovery” process. The discovery process gathers facts about the claims and defenses raised by the parties. You may be required to answer written questions under oath concerning the overtime hours you claim you worked for which you were not properly compensated. You may also be required to answer questions under oath in an oral deposition and/or give testimony at a trial and travel to do so.

### **4. PERSONS ELIGIBLE TO RECEIVE THIS NOTICE**

The United States District Court has ordered this FLSA notice to be distributed to all persons who currently work or have worked for Pure Energy in any state in the United

States at any time during the past three (3) years who have been compensated by a day rate for work in the field.

## **5. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT**

If you are or were employed by Pure Energy Services (USA), Inc. during the past three (3) years and were paid a “day rate” for work in the field as described in paragraph 4 above, and worked more than forty (40) hours in at least one work week in this time frame, then you are eligible to join this case as a plaintiff. You may join this lawsuit if you wish, but need not do so if you do not wish to do so.

## **6. WHAT YOU NEED TO DO TO JOIN THIS CASE**

If you want to participate in this lawsuit, you must take affirmative steps to indicate your intent to join the case. You must complete and sign a copy of the “Consent to Join” form, which is attached to this Notice, and complete the information questionnaire which is also attached to this Notice. You must return these forms to counsel representing the plaintiffs in this case:

Alan S. Kaufman  
CHAMBERLAIN, KAUFMAN & JONES  
35 Fuller Road  
Albany, New York 12205  
518-435-9427  
518-435-9102 (fax)  
[ckj@flsa.com](mailto:ckj@flsa.com)

You may fax or mail the forms.

## **7. DEADLINE FOR SENDING THE FORMS**

The United States District Court has set a deadline for the filing of Consents to

Join this case of Thomas O. Condos et al v. Pure Energy Services (USA) Inc., Docket No. 07-CV-00127J. You must therefore make sure that your consent to join this case is received by Chamberlain, Kaufman & Jones in sufficient time to allow it to be filed by that date.

Having a “Consent to Join” form filed does not guarantee that you will be able to participate in the trial of this lawsuit because this may depend upon a final ruling from the District Court that you and the original plaintiffs are “similarly situated” under federal law and that you may participate in the same suit as part of the collective action.

Failing to return and have filed the “Consent to Join” form by the deadline means you will not be allowed to participate in any settlement or judgment in this lawsuit, but does not bar you from starting or joining another lawsuit.

## **8. STATUTE OF LIMITATIONS**

As noted above, the FLSA contains a statute of limitations period of at least two (2) years and potentially up to three (3) years for the filing of a claim for unpaid overtime wages. This means that if you do not file a claim for unpaid overtime within two (2) or three (3) years (whichever is applicable) after the overtime was worked for which you seek payment, the claim is forever barred. Therefore, if you desire to participate in this case, you should return your “Consent to Join” promptly. If you decide not to file a “Consent to Join” in this lawsuit, you should consult with your own attorney as to the statute of limitations that would apply to your claim.

## **9. EFFECT OF JOINING THIS CASE**

If you file a “Consent to Join” form and the Court later permits your claims to proceed to trial as part of the collective action, you will be bound by any judgment regarding the FLSA claims in the lawsuit, whether favorable or unfavorable to plaintiffs. While the suit is pending, you may be required to respond to written discovery, provide relevant information, to give sworn testimony in a deposition in Cheyenne, Wyoming or other location set by the lawyers, and/or appear for trial in Cheyenne, Wyoming.

If you choose to join this collective action, you will be represented by the law firm currently representing the plaintiffs under the terms of a confidential retainer agreement that the current plaintiffs have executed.

As an alternative to joining this lawsuit, you may file your own lawsuit with any counsel of your choosing, or do nothing.

#### **10. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT**

If you choose not to join this collective action, you will not be affected by any judgment, whether it is favorable or unfavorable to plaintiffs. If you choose not to file a “Consent to Join,” you are free to file your own lawsuit. If you choose not to file a “Consent to Join” this suit, the statute of limitations will continue to run until such time as you file a lawsuit on your own behalf.

#### **11. NO RETALIATION PERMITTED**

**FEDERAL LAW PROHIBITS PURE ENERGY OR ITS AGENTS FROM TAKING ANY ACTION AGAINST YOU BECAUSE YOU ELECT TO JOIN THIS ACTION BY FILLING OUT AND RETURNING THE “CONSENT TO JOIN” FORM, OR OTHERWISE EXERCISING YOUR RIGHTS UNDER THE FLSA.**

#### **12. PLAINTIFFS’ COLLECTIVE ACTION COUNSEL**

Alan S. Kaufman  
CHAMBERLAIN, KAUFMAN & JONES  
35 Fuller Road  
Albany, New York 12205  
518-435-9427  
518-435-9102 (fax)  
[ckj@flsa.com](mailto:ckj@flsa.com)

and local counsel in Wyoming:

Jason M. Tangeman  
ANTHONY, NICHOLAS & TANGEMAN, LLC  
170 North Fifth Street  
P. O. Box 928  
Laramie, WY 82072  
307-742-7140  
307-742-7354 (fax)  
[jtangeman@wyolegal.com](mailto:jtangeman@wyolegal.com)

### **13. DEFENDANT'S LEGAL REPRESENTATION**

W. V. Bernie Siebert  
Sherman & Howard LLC  
633-17th Street  
Suite 3000  
Denver, CO 80202  
303-299-8222  
303-298-0940 (fax)  
[bsiebert@sah.com](mailto:bsiebert@sah.com)

and local counsel in Wyoming:

Sharon M. Rose  
Lavery & Rose, PC  
P. O. Box 890  
Evanston, WY 82930  
307-444-4200

### **14. FURTHER INFORMATION**

For further information about this lawsuit, including any part of this Notice, please

contact plaintiffs' counsel, Chamberlain, Kaufman & Jones, by mail, telephone or e-mail at the contact information noted above in paragraph 12.

**To view the legal documents filed with the Court in this case, please visit the District of Wyoming website at <http://www.wyd.uscourts.gov> and click on the link in the upper right corner titled "Collective Action, Condos v. Pure Energy."**

PLEASE DO NOT CONTACT THE COURT OR ANY COURT PERSONNEL FOR INFORMATION.

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF WYOMING. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR DEFENDANT'S DEFENSES.**

IT IS SO ORDERED.

Dated this 30<sup>th</sup> day of January, 2008.

/s/ Alan B. Johnson  
ALAN B. JOHNSON  
UNITED STATES DISTRICT JUDGE