

IN THE COURT OF COMMON PLEAS, CENTRE COUNTY, PENNSYLVANIA
 CIVIL ACTION - LAW

JAMES C. KING, on behalf of himself
 And all others similarly situated
 Plaintiff,

v.

GLENN O. HAWBAKER, INC.,
 Defendant,

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 : NO. 2021-0957
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Attorney for Plaintiff:
Attorney for Defendant:

Michael D. Donovan, Esq.
Colin D. Dougherty, Esq.

ORDER

AND NOW, this 10 day of October 2023, having received and reviewed Plaintiff's Motion for Class Certification, briefs on the matter, and after a hearing on the issues the Court GRANTS Plaintiff's Motion. The action shall be maintained as a class action in accordance with Pennsylvania Rules of Civil Procedure 1701 *et. seq.*, pursuant to the following findings of fact and conclusions of law:

1. The "Class" is defined as:
 "all current and former hourly wage employees who worked on prevailing wage contracts at Hawbaker in the Commonwealth of Pennsylvania during the period September 1, 2015 through December 31st, 2018 (the "Class Period")".
2. The Class is so numerous that joinder is not practicable. To date, Plaintiff has plead the Class consists of at least 1,262 hourly wage employees who worked on prevailing wage contracts at Hawbaker in Pennsylvania during the Class Period.
3. There are questions of Law of fact in common to the Class, including the following:

- a. Whether Defendant engaged in a common pattern, scheme, practice or course of conduct that shorted prevailing wage workers of the wages and fringe benefits earned and owed during the Class Period;
 - b. Whether Defendant engaged in a common pattern, scheme, practice, or course of conduct to breach its contract with Plaintiff and the Class to pay the prevailing wage as promise in the form of actual wages and fringe benefits;
 - c. Whether Defendant engaged in a common pattern, scheme, practice or course of conduct to violate the Pennsylvania Wage Payment and Collection Law by failing to timely pay all wages and benefits earned and owed during the Class Period to Plaintiff and the Class members;
 - d. Whether Plaintiff and the Class members are intended third party beneficiaries of the tolling agreement entered into between Defendant and the OAG;
 - e. Whether Defendant failed to keep true and accurate records for all the hours worked by, and all wages and benefits owed to, Plaintiff and the Class members in violation of Pennsylvania and Federal law;
 - f. Whether Plaintiff and Class have suffered damages and the measure thereof; and
 - g. Whether Defendant can prove by clear and convincing evidence Defendant had a good faith basis for failing to timely pay all prevailing wages owed to Plaintiff and the Class as required by law.
4. The claims of Plaintiff King are typical of the claims of the Class. Plaintiff King was a prevailing worker during the Class Period. Plaintiff King alleges he

sustained damages and continues to sustain damages, along with the other Class members, as a result of Defendant's alleged practice of shorting prevailing wage workers of promised wages and fringe benefits.

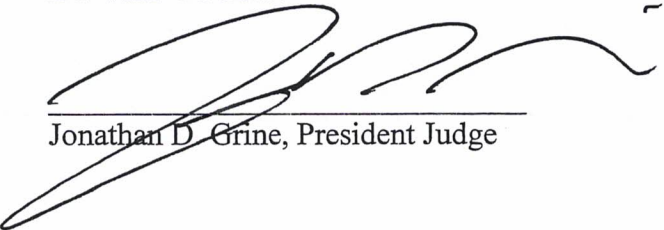
5. Plaintiff will fairly and adequately protect the interests of the Class and is represented by counsel who are experienced in complex class action litigation.
6. The questions of law or fact common to the members of the Class predominate over any questions affecting only individual members. Defendant alleges they have followed uniform practices and procedures with respect to the payment of wages, including fringe benefits, to all members of the Class during the Class Period.
7. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would confront Defendant with incompatible standards of conduct.
8. This Court is an appropriate forum for the litigation of the claims of the Class.
9. In view of the complexities of the issues and expenses of litigation, the separate claims of individual Class members are not sufficient in amount to support separate actions.
10. The amount which may be recovered by individual Class members is modest in relation to the expense and effort of proceeding with individual lawsuits, thus making a class action proceeding more economical.
11. Inasmuch as a distribution of criminal remedies has been made to the Class in the OAG's action against Defendant, there will be no difficulty in the management of this action as a class action.

12. The Wage Payment and Collection Law (“WPCL”) expressly contemplates class proceedings for claims of this sort: “Any employee or group of employees, . . . to whom any type of wages is payable may institute actions provided under this act.” 43 P.S. §260.9a(a).

The Court further ORDERS the following:

1. Plaintiff James C. King is certified as Class Representative,
2. Michael D. Donovan of Donovan Litigation Group, LLC shall serve as Lead Class Counsel, and Andrew J. Shubin of Shubin Law Office and Eric Lechtzin of Edelson Lechtzin LLP shall serve as additional Class Counsel,
3. Plaintiff shall submit to the Court a proposed form of notice to the Class within twenty (20) days of the date of this Order. The parties promptly confer in an effort to agree upon suitable notice. Within twenty (20) days, Defendant shall provide to Class Counsel in computer readable form with the last and best known address(es) of each person meeting the definition of the Class, as set forth above.

BY THE COURT:



Jonathan D. Grine, President Judge