

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

RAFAEL A. MOREL THEN, Individually  
and on Behalf of All Other Person Similarly  
Situated,

Plaintiff,

v.

GREAT ARROW BUILDERS LLC,

Defendant.

Civil Action No. 2:20-cv-00800-CCW

**NOTICE OF SETTLEMENT**

*A federal court authorized this notice. It contains information that may affect your rights.*

**The Honorable Christy Criswell Wiegand, United States District Court Judge, has authorized this Notice and its contents.**

TO: All current and former hourly craft union workers who were employed by Great Arrow Builders LLC at any time from November 26, 2018 to the present and were eligible pursuant to a collective bargaining agreement to receive a \$14 per day Site Allowance.

**1. What is this notice about?**

This notice is to tell you about a settlement of a collective- and class-action lawsuit filed against Great Arrow Builders LLC (“Great Arrow”) in which you are eligible to participate. This is not a notice of a lawsuit against you or a solicitation from a lawyer. A federal court has authorized this notice. It summarizes the settlement and explains how you will receive money under the settlement.

**2. Why did I get this notice?**

You are getting this notice because Great Arrow’s records show that it employed you as a union-represented hourly employee during the “Relevant Period” from November 26, 2018 to the present. The purpose of this notice is to notify you of your right to receive a settlement recovery in this case.

Please note that Great Arrow denies that it violated the law, and the Court has not ruled on the merits of the lawsuit. To avoid the burden, expense and inconvenience of continued litigation, the Parties have concluded that it is in their best interest to resolve and settle the Lawsuit by entering into a Settlement Agreement. Nothing contained in this Notice, nor the fact of this Notice itself, shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Great Arrow.

The Honorable Christy Criswell Wiegand, United States District Court Judge in the Western District of Pennsylvania, is overseeing the settlement of this collective action. The lawsuit is

known as *Morel Then v. Great Arrow Builders LLC*, Case No. 2:20-cv-00800-CCW (W.D. Pa.). You may have also received a notice regarding a settlement in the case known as *LaRue v. Great Arrow Builders LLC*, Case No. No. 10859-2019 (Pa. Common Pleas, Beaver Cty.), and you may be eligible to recover under both settlements.

### **3. What is this lawsuit about?**

This lawsuit was originally filed on June 1, 2020. It alleges that Great Arrow violated the Fair Labor Standards Act (“FLSA”) and the Pennsylvania Minimum Wage Act (“PMWA”) by failing to include the \$14 per day Site Allowance pay (the “Site Allowance”) in the “regular rate” used to calculate the overtime compensation owed to certain Hourly Craft Union Workers employed by Great Arrow, during the Relevant Period (“Class Members”). The lawsuit only covers those Hourly Craft Union Workers whose wages were paid pursuant to the terms of a labor agreement that required payment of the Site Allowance.

The Plaintiff alleges that Great Arrow violated federal and state law by paying Hourly Craft Union Workers less than what they were owed under the law because Great Arrow did not include the \$14 per day Site Allowance when calculating employees’ overtime rate. The lawsuit seeks to recover overtime wages for each hourly employee with the Site Allowance calculated into the overtime rate, as Plaintiff alleges is required by the FLSA and PMWA.

### **4. What is Great Arrow’s position?**

Great Arrow denies the Plaintiff’s allegations and asserts that it complied with the FLSA and PMWA in good faith. Among other things, Great Arrow denies that it violated federal or state wage law; denies that the Plaintiff or others similarly situated were not paid all appropriate wages as proscribed by federal or state wage law; and denies that it miscalculated the regular rate of pay for hourly employees. Further, Great Arrow maintains that, even if the Site Allowance should have been calculated into Class Members’ regular rates, premium rates paid by Great Arrow pursuant to the National Construction Agreement will offset some or all overtime liability in most weeks in which overtime was worked by Class Members. In sum, Great Arrow denies that it is liable for all damages sought by the Plaintiff and others similarly situated.

### **5. Has the Court decided who is right?**

The Court has not ruled on the merits of the Parties’ respective positions. The Court has simply approved the settlement that was reached between the Parties following a full-day conference with a neutral third-party mediator.

### **6. What are the Terms of the Settlement?**

Plaintiffs and Great Arrow have agreed to the settlement summarized below. The complete terms and conditions of the proposed settlement are stated in the Settlement Agreement. The Parties’ obligations under the Settlement will not become effective unless and until the Settlement receives final court approval, including the exhaustion of any appeals.

By the settlement’s terms, Great Arrow agreed to pay a settlement amount of up to \$2,725,000.00, which will be used to pay Plaintiff, Class Members, and Class Counsel, and also cover settlement administration expenses. In exchange, this action will be dismissed with prejudice and Class Members will fully release and discharge Great Arrow from certain claims as described more fully

below.

A. *Will Plaintiff or any other Class Member receive additional compensation?*

In addition to their respective shares as participating Class Members, Plaintiff Rafael A. Morel Then and pre-notification opt-in plaintiff Joshua Smith will be paid up to \$10,000.00 each (subject to Court approval) for their services as early participants in this case, as well as their willingness to accept the risks of litigation.

B. *What is the legal effect of participating in the settlement?*

If the Court grants final approval of the settlement, in exchange for payments made as part of the settlement to Class Members, this action will be dismissed with prejudice and Class Members will fully release and discharge Great Arrow from certain claims. When claims are “released,” that means that a Class Member covered by the release cannot sue Great Arrow for any of the claims that are covered by the release. Any Class Member who does not affirmatively exclude him or herself from the settlement (as described below in Section 11) releases Great Arrow from claims as described in the Settlement Agreement in exchange for payment from the settlement.

The terms of the Waiver and Release in the Settlement Agreement read:

In exchange for the Settlement Amounts and the other good and valuable consideration provided pursuant to the terms of this Agreement, the Named Plaintiff and Settlement Class Members, on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to release and forever discharge all claims for unpaid wages, overtime, failure to pay timely wages, retaliation, and other compensation, fees/costs, liquidated damages, penalties, and all other relief under the FLSA and all other state and local wage/hour and wage payment laws and common law theories as it relates to the calculation of the non-discretionary \$14 per day Site Allowance arising or accruing prior to the date of the Order granting final approval of the Settlement that they have or may have, whether known or unknown (the “Released Claims”), against Defendant, including its former and present officers, directors, employees, attorneys, insurers, benefit plans, predecessors, successors, parents, sponsors, subsidiaries, and affiliates (the “Released Parties”).

## **7. How much money can I recover in this settlement?**

Under the settlement, Class Members will receive a *pro rata* share of the \$2,725,000.00 settlement amount, less the employer’s share of payroll taxes, individual awards to Plaintiff and Smith, Class Counsel’s fees, and litigation and settlement-administration expenses. Pending final Court approval of the settlement, the amount available to Class Members will be approximately \$1,597,093. The following settlement calculations will be employed—and individual settlement payments will be

made—only if the Court orders final approval of the settlement as fair and reasonable.

Your individual share of the settlement will be a payment for additional overtime wages and will be calculated based upon the number of weeks you worked and may continue to work for Great Arrow as an hourly craft union worker from November 26, 2018 through and including any date of final approval by the Court. Weeks in which you worked a partial workweek will be treated as a full workweek for purposes of your settlement share, but weeks in which you performed no work (due to, for example, COVID-19 closures, vacation, layoff, illness, injury, or leave of absence) do not count towards your share of the settlement.

As of November 18, 2021, Class Members worked an approximate, combined total of 593,812 weeks. If and when the Court approves the settlement, the total number of weeks will be recalculated to include the total number of weeks worked by Class Members from November 18, 2021 through the final-approval date. If the Court’s final approval order is issued in the middle of a work week, that week will be included in the calculation of the total number of weeks. Using that number, an estimated settlement value of each week worked will be calculated as follows:

$$\text{\$1,597,093} / \text{Total Number of Weeks} = \text{Dollar Value for Each Week}$$

As of November 18, 2021, Great Arrow payroll data indicates that you have worked [number of] weeks since November 26, 2018 through and including November 18, 2021. Importantly, if you are still employed by Great Arrow as an hourly craft union worker (or are no longer employed but worked any weeks after November 18, 2021), the value of your “Class Member’s Weeks Worked” in the below formula will increase by one week for each week during which you have worked or work between November 18, 2021 and the date of the Final Approval Order. Your (and each Class Member’s) final settlement value will be calculated as follows:

$$\text{Dollar Value for Each Week} \times \text{Class Member’s Weeks Worked} = \text{Class Member’s Settlement}$$

Importantly, this settlement will be in the form of W2 taxable wages. This means that any money paid to you will be processed as a payroll check with payroll taxes withheld. You will receive an IRS Form W2 reflecting this portion of your settlement payment. We encourage you to consult your tax professional regarding this income.

Please call one of the law firms listed in Section 14 below if you have any questions about your individual payment amount or the settlement in general.

### **8. When will the court decide to give final approval to the settlement?**

The Court will hold a fairness hearing at 10:00 a.m. on July 22, 2022, via teleconference. At that time, the Court will review the papers submitted by the Parties and any objectors, and hear properly noticed witnesses, if any. The Court will decide either at, or after, the fairness hearing whether to grant final approval, and will issue a written order of its decision.

### **9. What must I do to receive a money payment?**

You do not need to take any action to participate in this settlement. Unless you take steps to exclude yourself from the settlement, you will receive a settlement check described in Section 7 above in exchange for your waiver of certain legal rights against Great Arrow.

## **10. What do I give up by receiving a money payment?**

As noted above, if you do not exclude yourself from this settlement, you will waive certain legal rights against Great Arrow in exchange for your settlement payment. Specifically, you will release Great Arrow from all applicable claims for unpaid wages, overtime, retaliation or other compensation, fees/costs, liquidated damages, penalties, and all other relief under the FLSA and all other state and local wage/hour and wage payment laws and common law theories arising or accruing against Great Arrow regarding your Site Allowance.

If you have questions about the above release, please call one of the law firms identified in Section 14.

## **11. Can I exclude myself from the settlement?**

You may exclude yourself from the Settlement Class. If you do so, you will receive no benefits or payment, you will not be giving up any legal claims you may have against Great Arrow, and you will not be bound by any orders or judgments of the Court presiding over this case.

To be excluded, you must send a letter postmarked by May 9, 2022 to the attention of RG/2 Claims Administration LLC, P.O. Box 59479, Philadelphia, PA 19102-9479. The letter must be signed and must explain that you want to be excluded from the Settlement Class. Also include your name, address, telephone number, and the last four digits of your social security number.

If you have questions about excluding yourself from the settlement, please call RG/2 Claims Administration LLC at (866) 842-4955. You do not need to exclude yourself from this settlement to receive the settlement benefits in the case known as *LaRue v. Great Arrow Builders LLC*, Case No. No. 10859-2019 (Pa. Common Pleas, Beaver Cty.).

## **12. Can I object to the settlement and attend a hearing?**

If you wish to object to the settlement, you must send a letter signed by you and postmarked by June 23, 2022 to the Court at the address below about why you do not like the settlement and, if you plan to attend the fairness hearing, state the purpose of your appearance and your desire to be heard by the Court.

Clerk of Court, Case No. 2:20-cv-00800-CCW (W.D. Pa.)  
United States District for the Western District of Pennsylvania  
**U.S. COURTHOUSE**  
700 Grant Street  
Pittsburgh, PA 15219

You must also send a copy of your objections to the offices of the Attorneys for Plaintiff and the Settlement Class identified in Section 14 and Attorneys for Great Arrow at the addresses below.

Attorneys for Plaintiff:  
**ROBERT PEIRCE &  
ASSOCIATES, P.C.**  
D. Aaron Rihn, Esq.  
707 Grant Street, Suite 125

Attorneys for Defendant:  
**JONES DAY**  
James S. Urban, Esq.  
500 Grant Street, Suite 4500  
Pittsburgh, PA 15219

Pittsburgh, PA 15219  
Telephone: (412) 281-7229  
Email: arihn@piercelaw.com

Telephone: (412) 394-7959  
Email: jsurban@jonesday.com

**13. Will I be retaliated against by either party for participating or not participating?**

No. Consistent with its legal obligations, Great Arrow will not retaliate against any individual who chooses to participate in this settlement. Likewise, Great Arrow management is not permitted to discuss this settlement with you, make negative comments about the settlement, or otherwise pressure or dissuade hourly employees from participating in this settlement. Do not attempt to ask any Great Arrow managers about the settlement, as they will not discuss it with you.

**14. Do I have a lawyer in this case?**

If you do not exclude yourself from the Settlement Class, you will be represented by the named Plaintiff through his attorneys. They are:

**MIGLIACCIO & RATHOD LLP**

Nicholas A. Migliaccio, Esq.  
Jason S. Rathod, Esq.  
412 H Street NE, Suite 302  
Washington, DC 20002  
Telephone: (202) 470-3520  
Email: nmigliaccio@classlawdc.com  
jrathod@classlawdc.com

**ROBERT PEIRCE &  
ASSOCIATES, P.C.**

D. Aaron Rihn, Esq.  
Sara J. Watkins, Esq.  
707 Grant Street, Suite 125  
Pittsburgh, PA 15219  
Telephone: (412) 281-7229  
Email: arihn@piercelaw.com  
swatkins@peircelaw.com

If you want further information about this lawsuit or have questions, please contact one of these law firms or the settlement website at [www.gabwagelawsuit.com](http://www.gabwagelawsuit.com).

**15. How will the lawyers be paid?**

The law firms identified in Section 14 have worked on this lawsuit to date without being paid. They will petition the Court for an award of attorney fees of \$908,333.33 (representing 33 1/3 percent of the Common Fund) and costs of \$3,622.12, which will be paid from the \$2,725,000.00 that Great Arrow is paying to settle the case. You are *not* required to pay any legal fees from your share of the settlement, as described in Section 7 above.

**DO NOT CONTACT THE COURT ABOUT THIS NOTICE**

NOTICE DATE: March 25, 2022