

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division**

**DAVID M. DRISCOLL, individually and on
behalf of all others similarly situated,**

Plaintiff,

v.

**THE GEORGE WASHINGTON
UNIVERSITY,**

Defendant.

Case No. 1:12-cv-00690-ESH

**NOTICE OF OPPORTUNITY TO JOIN A LAWSUIT
SEEKING TO RECOVER BACK OVERTIME WAGES**

To: All current and former Executive Assistants, Executive Coordinators and Executive Associates employed by The George Washington University after April 27, 2009, who worked in excess of forty hours per week in those positions, were not paid overtime wages during all or part of their employment in those positions, and were in one of those positions when those positions were reclassified.

Re: Collective action lawsuit against The George Washington University under the federal Fair Labor Standards Act and the District of Columbia Minimum Wage Act.

The purpose of this Notice is to inform you of the existence of a collective action lawsuit

in which you may be “similarly situated” to the named Plaintiff, David Driscoll (“Driscoll”), 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.

1. WHAT THE LAWSUIT IS ABOUT:

Driscoll filed this lawsuit against The George Washington University (“GWU”) on April 27, 2012. Driscoll is a former Executive Coordinator employed by GWU and not paid overtime wages until the position was reclassified in 2011. Driscoll filed the lawsuit individually and on behalf of all other similarly situated persons. He claims that GWU violated his rights under the Federal Fair Labor Standards Act (“FLSA”) and the District of Columbia Minimum Wage Act (“DCMWA”), as well as the rights of other Executive Assistants, Executive Coordinators and Executive Associates who worked for GWU after April 27, 2009, who worked in excess of forty hours per week in those positions and were not paid overtime wages during all or part of their employment in those positions, and were in one of those positions when those positions were reclassified.¹ Driscoll claims that prior to 2011, GWU did not pay Executive Assistants, Executive Coordinators and Executive Associates overtime wages even though they worked overtime hours; that in 2011, GWU reclassified these positions and began paying overtime wages to people working in them; that GWU made back overtime wage payments as part of the reclassification; that GWU improperly calculated the back overtime wages due; and that as a result of the improper calculation, GWU paid employees substantially less in back overtime wages than they were due. The lawsuit seeks back overtime pay plus liquidated damages equal to the amount of the back pay owed. The lawsuit also asks that GWU be required to pay Plaintiffs’ costs and attorney’s fees.

¹ People who did not work in the District of Columbia can participate in the collective action to bring federal Fair Labor Standards Act claims, but not claims under the DC Minimum Wage Act.

GWU denies Driscoll's allegations, and denies that is liable for any back pay or liquidated damages. In 2011, GWU undertook a project that included the review of the Executive Associate, Executive Coordinator and Executive Assistant positions. As a result of this review, the University voluntarily reclassified these positions from exempt to nonexempt, worked with employees in these positions and with their managers and supervisors to estimate the number of hours worked by these employees in excess of forty per week to calculate the amount of back overtime to be paid in accordance with guidance from the U.S. Department of Labor, and to make the payments. Employees had the opportunity to and did provide input into the process.

2. WHO CAN PARTICIPATE IN THE LAWSUIT

You can join the case if you (1) were employed by GWU after April 27, 2009, as an Executive Assistant, Executive Coordinator or Executive Associate, (2) worked in excess of forty hours per week in those positions and were not paid overtime wages during all or part of you employment in those positions, and (3) were in one of those positions when those positions were reclassified.

3. HOW TO PARTICIPATE IN THIS LAWSUIT

If you wish to join this case, you may do so by completing the attached "Consent to Become Party Plaintiff" form and mailing it in the enclosed pre-paid envelope or sending it to the Plaintiffs' counsel by fax to 845-255-8649 or by e-mail to mayres@getmansweeney.com. The form must be postmarked, faxed or emailed to the Plaintiffs' counsel no later than **January 15, 2013**. You must return the Consent to Become Party Plaintiff by that date to participate in this lawsuit. It is entirely your own decision whether or not to join this lawsuit. This notice does not mean that you have a valid claim or that you are entitled to any monetary recovery. Any such determination must be made by the Court.

4. EFFECT OF JOINING THIS CASE

If you choose to join in this case you will become a Party Plaintiff in this lawsuit, and you will be bound by any judgment, whether it is favorable or unfavorable.

If you sign and return the Consent to Become a Party Plaintiff form attached to this Notice and are joined in the case, you are agreeing to designate the named Plaintiff as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiff's attorneys concerning attorney's fees and costs, and all other matters pertaining to this lawsuit. These decisions made and entered into by the named Plaintiff will be binding on you if you join this lawsuit. As a Party Plaintiff, you may be subject to discovery, including written discovery and having to sit for a deposition.

The attorneys for the Plaintiff are being paid on a contingency fee basis as set forth in the "Consent to Become Party Plaintiff" form which is attached. Under the terms of the contingency agreement, you are not responsible for paying attorneys' fees or costs unless the named and opt-in Plaintiffs recover on their claims. If you sign and return the Consent to Become Party Plaintiff form, you are entering into an agreement with Plaintiff's counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. However, the Court retains jurisdiction to determine the reasonableness of any contingency agreement entered into by the Plaintiff with his attorneys, and to determine the adequacy of Plaintiff's counsel.

You also have the right to join this lawsuit and be represented by counsel of your own choosing who will represent only you and will be compensated on the terms as agreed between you and your attorney. You may also proceed *pro se*, that is on your own and without an attorney. If you choose to do either, you or your attorney must file an "opt-in" consent form by January 15, 2013.

5. TO STAY OUT OF THE LAWSUIT

If you do not wish to be part of the lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the case in any way and you will not be bound by or affected by the result (whether favorable or unfavorable). Your decision not to join this case will not affect your right to bring a similar case on your own at a future time. If you intend to bring your own action, you should be aware that the statute of limitations is running on your claims, which means you may be losing claims each week that you wait to bring them.

6. NO RETALIATION PERMITTED

Federal law prohibits GWU or anyone from discharging or in any other manner discriminating against you because you “opt-in” to this case, or have in any other way exercised your rights under the FLSA or the DCMWA.

7. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this lawsuit and agree to be represented through Plaintiffs’ attorney, your counsel in this action will be:

Getman & Sweeney, PLLC
9 Paradies Lane
New Paltz, NY 12561
845-255-9370
845-255-8649 (Fax)
ltse@getmansweeney.com
<http://www.getmansweeney.com>

8. FURTHER INFORMATION

The Complaint and GWU’s Answer filed in this lawsuit are available for inspection at the office of the Clerk of the Court. In addition, you may obtain a copy by contacting Plaintiffs’ counsel who will forward a copy to you. Documents filed with the court concerning the case are also available at www.getmansweeney.com.

Further information about this Notice, the deadline for filing a Consent to Become Party Plaintiff, or answers to questions concerning this lawsuit may be obtained by writing, telephoning, or e-mailing the Plaintiffs’ counsel at the telephone number and addresses stated above.

Dated: November 16, 2012

Getman & Sweeney, PLLC
9 Paradies Lane
New Paltz, NY 12561
845-255-9370
845-255-8649 (Fax)
ltse@getmansweeney.com
<http://www.getmansweeney.com>

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS’ CLAIMS OR OF GWU’S DEFENSES. PLEASE DO NOT CONTACT THE COURT, THE COURT’S CLERK, OR THE JUDGE. THEY ARE NOT PERMITTED TO ADDRESS YOUR INQUIRIES OR QUESTIONS.