

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

**Notice of overtime pay and minimum wage lawsuit against Rise Services Inc. on behalf of all
Direct Support Professionals**

A court authorized this Notice.

TO: All current and former Direct Support Professionals who worked for Rise Services Inc. in Arizona from February 18, 2019 through August 29, 2022.

DATE: August 29, 2022

RE: Fair Labor Standards Act (“FLSA”) lawsuit against Rise Services Inc. seeking compensation for unpaid minimum wage and overtime for hours worked by Direct Support Professionals.

Deion Anthony, on behalf of himself and all those similarly situated, v. Rise Services Inc., Case No. CV-22-00268-PHX-GMS, pending in the United States District Court for the District of Arizona.

1. This Notice describes a lawsuit that you are allowed to join.

The purpose of this Notice is to inform you of the existence of a collective action lawsuit against Rise Services Inc. The Court has determined that you may be similarly situated to Deion Anthony, the Named Plaintiff who brought this case. Therefore, the Court has ordered that this Notice be sent to you, to explain what the lawsuit is about, so that you can decide whether to opt in (join the lawsuit as an FLSA class member).

Please note that the Court has not ruled on the merits of the lawsuit. The Court has only ruled that you are entitled to be notified of the existence of the lawsuit so that you can determine (a) how to protect your rights and (b) whether you wish to join the lawsuit.

2. The lawsuit seeks to recover overtime pay and minimum wage for Direct Support Professionals.

Plaintiff Deion Anthony (“Plaintiff”) brought this action under the Fair Labor Standards Act (“FLSA”) on behalf of himself and all other past and current Direct Support Professionals who worked at Rise Services Inc. in Arizona from February 18, 2019 through August 29, 2022.

Plaintiff contends that he and other Direct Support Professionals are owed unpaid minimum wage and overtime pay under the FLSA. Specifically, Plaintiff alleges that Rise Services Inc. has violated the FLSA by requiring Direct Support Professionals to routinely perform certain activities off-the-clock without pay, including completing mandatory training. Plaintiff alleges that he and all employees similarly situated are entitled to recover unpaid minimum wage and overtime pay (including overtime calculated at the proper rate inclusive of any hazard pay and bonuses that should be factored into the overtime rate), liquidated damages (equal to the unpaid overtime pay and minimum wage), pre- and post-judgment interest, attorneys’ fees, and costs associated with bringing this lawsuit. This lawsuit is currently in its early stages.

Rise Services Inc. contests all claims that have been asserted, and asserts that it paid its employees in compliance with the FLSA for all hours worked, and that it calculated overtime correctly. Rise denies that it owes any unpaid overtime or anything else to the Plaintiff or any current or former Direct Service Professionals.

No money or benefits are available at this time because the Court has not yet decided whether Rise did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits ever will be obtained. If they are, you will be notified about how to receive your share.

3. How you can exercise your right to join this lawsuit?

If you worked at Rise Services Inc. in Arizona as a Direct Support Professional anytime from February 18, 2019 through August 29, 2022, you may choose to join this suit (that is, you may “opt in”). To opt in, you must submit a “Consent to Opt-In to Collective Action” form. The Consent to Opt-In to Collective Action form is provided with this Notice. You may join the lawsuit by completing and mailing, emailing, or faxing the enclosed Consent to Opt-In to Collective Action to Plaintiff’s counsel. It can be returned by mail the following address:

Ty D. Frankel, Esq.
YEN PILCH ROBAINA & KRESIN PLC
6017 N. 15th Street
Phoenix, Arizona 85014
Telephone: (602) 682-6450

You may also fax the form to (602) 682-6455 to the attention of Ty D. Frankel or email it to TDF@yprklaw.com. The form must be sent to the Plaintiff's counsel in sufficient time to have Plaintiff's counsel file it with the federal court on or before October 28, 2022. If you fail to return the Consent to Opt-In to Collective Action form to Plaintiff's counsel in time for it to be filed with the federal court on or before the above deadline, you will not be able to participate in this lawsuit. You are not required to participate.

4. The consequences of joining this lawsuit.

If you return a Consent to Opt-In form to be filed with the Court, you will be bound by the judgment (the final result of the lawsuit), whether favorable or unfavorable (that is, whether Plaintiff wins the case against Rise Services Inc. or not), or any settlement of this action. While the suit is proceeding, you may be required to provide information, appear for a deposition, and/or testify in court. Failure to participate in discovery could result in sanctions against you including dismissal of your claims.

Plaintiff's attorneys will not charge you directly for their work in this case. If there is no recovery (i.e., if the Plaintiff recovers no money from Rise Services Inc.), you will not have to pay the attorneys for any of their work. If there is a recovery, Plaintiff's counsel is entitled to receive a part of any settlement obtained or money judgment entered in favor of all the members of the collective action. Plaintiff's counsel is also entitled to fees awarded by the Court. Plaintiff's counsel's fees may be subtracted from the recovery obtained from Rise Services Inc., or they may be paid separately by Rise Services Inc., or there may be a combination of the two.

If you join this lawsuit, you are choosing to be represented by Plaintiff's counsel and authorizing the Named Plaintiff who brought this case to act as your representative and make decisions and agreements on your behalf concerning the lawsuit. If you sign and return the Consent to Opt-In to Lawsuit form attached to this Notice, you are agreeing to designate the Named Plaintiff in the collective action 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 counsel concerning attorneys' fees and costs, the entering into a settlement agreement or other resolution of this case, and all other matters pertaining to this lawsuit. These decisions and agreements will then be binding on you.

5. The consequences of not joining this lawsuit.

If you choose not to join this lawsuit, you will not be affected by any judgment in this lawsuit on this FLSA claim, whether favorable or unfavorable. If you choose not to join in this lawsuit, you may file your own lawsuit and select the attorney of your choice. However, if you do not join the lawsuit, you will not be able to receive any money recovered in this lawsuit.

6. What happens next?

The lawsuit will proceed toward trial, which could take many months or years. If your contact information changes, provide Plaintiff's counsel updated contact information so they may contact you as necessary (e.g., to update you about the case, to send you money from any settlement or judgment if you opt in, etc.).

7. No retaliation permitted.

Federal law prohibits Rise Services Inc. from retaliating against you in any way (for example, firing you, giving you unfair reviews, cutting your pay, failing to promote you, etc.) for exercising your rights under the FLSA (for example, by joining this lawsuit or by providing evidence in support of Plaintiff).

8. Your legal representation if you join.

If you choose to join this suit, you will be represented by the Named Plaintiff through his attorneys. They are:

YEN PILCH ROBAINA & KRESIN PLC
6017 N. 15th Street
Phoenix, Arizona 85014
Ty D. Frankel (AZ Bar No. 027179)
TDF@yprklaw.com
Patricia N. Syverson (AZ Bar No. 020191)
PNS@yprklaw.com
Telephone: (602) 682-6450

If you want further information about this lawsuit or have questions about the procedure or deadline for filing a "Consent to Opt-In to Collective Action," please contact Plaintiff's Counsel.

9. This Notice has been authorized by the Court.

This Notice and its contents have been authorized by the United States District Court for the District of Arizona, the Honorable G. Murray Snow presiding. The Court has taken no position regarding the merits of the Plaintiff's claims or of Rise Services Inc.'s defenses.

1 **YEN PILCH ROBAINA & KRESIN PLC**
6017 N. 15th Street
2 Phoenix, Arizona 85014
Telephone: (602) 682-6450
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TDF@yprklaw.com

4 **YEN PILCH ROBAINA & KRESIN PLC**
9655 Granite Ridge Drive, Suite 200
5 San Diego, California 92123
Telephone: (619) 756-7748
6 Patricia N. Syverson (020191)
PNS@yprklaw.com

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9 **IN THE UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 Deion Anthony, on behalf of himself and all
those similarly situated,

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13 Plaintiff,

14 v.

15 Rise Services Inc. dba Rise Inc., an Arizona
16 corporation; and Rise Services Inc., a Utah
corporation,

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18 Defendants.

Case No. CV-22-00268-PHX-GMS

**CONSENT TO OPT IN TO
LAWSUIT**

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20 Pursuant to 29 U.S.C. §§ 216(b) and 256, I hereby consent and opt-in to this lawsuit.
21 I am similarly situated to the representative Plaintiff in this lawsuit. I was an employee who
22 worked as a Direct Support Professional for Defendants within the past three years. During
23 my employment with Defendants, I was not paid wages statutorily required by the Fair
24 Labor Standards Act for hours that I worked.

25 I hereby consent to opt-in to this action and specifically authorize counsel of record
26 to pursue this lawsuit on my behalf along with all those similarly situated. I understand the
27 representative Plaintiff will act as my agent and make decisions on my behalf regarding this
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1 lawsuit, including decisions related to the litigation of and potential settlement or resolution
2 of this lawsuit. I agree that the decisions and agreements made and entered into by the
3 representative Plaintiff will be binding on me.

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Signature

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Printed Name

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Date

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Street Address

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City, State Zip Code

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Telephone Number

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E-mail Address

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