

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION**

SANDY BELL and MARTIN GAMA, individually, and on behalf of other members of the general public similarly situated, and as aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”),

Plaintiffs,

vs.

HOME DEPOT U.S.A., INC., a Delaware corporation; JOHN BROOKS, an individual; and DOES 1 through 10, inclusive,

Defendants.

MICHAEL HENRY, on behalf of himself, all others similarly situated, and the general public,

Plaintiff,

v.

HOME DEPOT U.S.A., INC., a Delaware corporation; and DOES 1-50, inclusive,

Defendants.

Case No. 2:12-cv-02499-JAM-CKD
[Assigned to Hon. John A. Mendez]

NOTICE OF CERTIFIED CLASS ACTIONS

If you worked for Defendant Home Depot U.S.A., Inc. (“Home Depot”) in California as an hourly, non-exempt employee who at any time from September 18, 2010 through May 3, 2016 or as a Supervisor at any time from August 14, 2009 through June 1, 2016 and, during such period(s), worked at least one overnight shift of more than eight hours that crossed midnight, a pending class action lawsuit may affect your rights.

A federal court authorized this notice. You are not being sued. This is not an advertisement.

**PLEASE READ THIS NOTICE CAREFULLY.
UNLESS YOU ACT, YOUR RIGHTS MAY BE AFFECTED BY A PENDING CLASS ACTION
LAWSUIT.**

1. **WHY SHOULD I READ THIS NOTICE?**

The purpose of this Notice is to inform you that your rights may be affected by a class action lawsuit (the “Class Action”). Judge John A. Mendez of the United States District Court for the Eastern District of California (the “Court”) has ordered that this Notice be sent to you to inform you about the pending Class Action and your rights. In a class action lawsuit, one (or more) person(s) called a “Class Representative” sues on behalf of other people who are the “Class Members.” In a class action, the Class Representative pursues claims for everyone in the Class—except for those who exclude themselves from the Class.

2. **WHAT IS THE LITIGATION ABOUT?**

The Class Representatives allege that Home Depot violated California’s wage and hour laws by failing to provide employees overtime pay as required by California law. The Class Representatives assert Home Depot has maintained an illegal policy of defining its workday in the State of California to start at midnight for the purpose of denying overtime compensation (time-and-a-half or double time) to overnight employees. In particular, Plaintiffs allege that Home Depot divides the hours worked by overnight employees into two separate “workdays,” then schedules its employees to work shifts that span two “workdays” in order to avoid overtime payments to those employees.

Home Depot contends that its workday policy is lawful, that the workday is defined the same as a calendar day (the workday starts and ends at midnight), and is not intended to avoid paying overtime. Home Depot believes that, under California law (which, by default, also defines the workday as the calendar day), it is required to pay overtime compensation only when hourly employees work more than eight hours in one calendar workday, and Home Depot already does so. Home Depot therefore maintains that its workday and overtime policies comply fully with California law, and denies that the Class Representatives have a valid claim.

This case is comprised of two lawsuits which the Court consolidated on September 13, 2016:

1. *Michael Henry v. Home Depot USA, Inc.*: In this case, plaintiff Michael Henry is bringing the overtime pay claim described above on behalf of all non-exempt California employees who, during the period September 18, 2010 through May 3, 2016, worked an overnight shift of more than eight hours that crossed midnight.

2. *Sandy Bell and Martin Gama v. Home Depot USA, Inc.*: In this case, Sandy Bell and Martin Gama are bringing the overtime pay claim described above on behalf of all non-exempt California supervisors who, during the period August 14, 2009 through June 1, 2016, worked an overnight shift of more than eight hours that crossed midnight.

The Court appointed Capstone Law APC and Setareh Law Group as Class Counsel and appointed former Home Depot employees, Sandy Bell, Martin Gama, and Michael Henry as Class Representatives.

In certifying these cases as class actions, the Court has not yet made a determination on the merits of the certified claims. However, the Court dismissed Plaintiffs’ claims for inaccurate wage

statements and for failing to pay all wages owed upon termination and/or resignation; Plaintiffs had asserted that both of these claims arise from the overtime pay claim. Whether the Class Representatives and the Class or Home Depot will prevail on the merits will be decided at trial. A trial date has not yet been set.

For more information visit www.cptgroupcaseinfo.com/HDwagelawsuit

3. WHAT RECOVERY DOES THE ACTION SEEK?

On behalf of all Class Members, the Class Representatives seek recovery of unpaid overtime, interest, and penalties under California Labor Code sections 500, 510(a), 1194 and 2698, *et seq.*, and California Business & Professions Code sections 17200, *et seq.*, arising from Home Depot's alleged failure to provide overtime pay due to its definition of the workday. The Class Representatives also seek attorneys' fees and costs, as described below.

4. WHO REPRESENTS THE PARTIES?

Plaintiffs Sandy Bell, Martin Gama, and Michael Henry, former Home Depot employees who filed the consolidated Class Actions, have been approved by the Court to act as the Class Representatives. Their attorneys have been approved by the Court to act as the Class Counsel:

Capstone Law APC

Melissa Grant
Mark A. Ozzello
Brandon Brouillette
Joeseph Hakakian
Capstone Law, APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (800) 778-8810
Facsimile: (310) 943-0369
info@HomeDepotLawsuit.com

Setareh Law Group

Shaun Setareh
Farrah Grant
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9454 Wilshire Boulevard, Suite 907
Beverly Hills, California 90212
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info@HomeDepotLawsuit.com

If you do not exclude yourself from the Class, you have the right to remain a member of the Class but not be represented by Class Counsel. If you do not opt out but do not want to be represented by Class

Counsel, you must enter an appearance by mailing a Notice of Appearance to the Clerk of the Court at the address set forth below. You may either represent yourself or retain your own attorney.

Home Depot is represented by the following attorneys:

AKIN GUMP STRAUSS HAUER & FELD LLP

Donna M. Mezas
Dorothy F. Kaslow
580 California Street, Suite 1500
San Francisco, California 94104
Telephone: (415) 765-9500
Facsimile: (415) 765-9501

5. WHAT FEES AND COSTS ARE INVOLVED?

Class Counsel are representing the Class on a contingency fee basis. Class Members may participate in the Class Action without incurring any out-of-pocket fees or costs, though they could be called to testify at trial, or be required to provide sworn deposition testimony. Class Counsel will only be paid their fees and costs if the Class Representatives, on behalf of the Class, prevail at trial or a settlement is reached. In that event, Class Counsel will make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement. Applications for attorneys' fees and expenses are subject to Court approval.

6. WHAT ARE MY RIGHTS AND OPTIONS?

OPTION 1	Do nothing, remain in the Class, and be represented by Capstone Law with Sandy Bell and Martin Gama as Class Representatives	If you do nothing, you will be a member of the Class and represented by Class Counsel with Sandy Bell, Martin Gama, and Michael Henry as Class Representatives. As a member of the certified classes you will receive further notices as the case progresses. You will give up the right to separately sue Home Depot for the same or related claims alleged in this Class Action, if you believe you have any such claims. You may also be called to testify at trial, to provide sworn deposition testimony, or answer written discovery requests. If the Class obtains a favorable judgment, you would remain eligible to receive a portion of any monetary recovery. Whether a judgment is favorable or unfavorable to you, you will have given up your right to separately sue for the same or related claims alleged in this Class Action.
OPTION 2	Respond that you want to remain in the Class but NOT be	If you wish to remain in the Class but do not want to be represented by Class Counsel, you may remain a member of the Class and either represent yourself or hire your own lawyer to represent you. To do so, you must notify Class Counsel and the Court. You will give up the right to

	<p>represented by Capstone Law</p>	<p>separately sue Home Depot for the same or related claims alleged in this Class Action. You may also be called to testify at trial, to provide sworn deposition testimony, or answer written discovery requests.</p> <p>If the Class obtains a favorable judgment or a settlement, you would remain eligible to receive a portion of any monetary relief. Whether a judgment is favorable or unfavorable to you, you will have given up your right to separately sue for the same or related claims alleged in this Class Action.</p>
<p>OPTION 3</p>	<p>Exclude yourself from the Class</p>	<p>If you do not want to be a member of the Class, you must exclude yourself from the Class by August 20, 2021 <u>by either (i) emailing HDwagelawsuit@cptgroup.com or (ii) mailing the enclosed Request for Exclusion Form.</u></p> <p>If you exclude yourself from the Class, you will not be part of the lawsuit, you will not be represented by Capstone Law, you will not be bound by any judgment in the Class Action, and you will <u>not</u> be entitled to receive a portion of any monetary recovery. The Class Action will not affect your rights or any claims you may have.</p>

7. HOW DO I ASK TO BE EXCLUDED FROM THE CLASS?

If you do not want to participate in this Class Action, you **MUST** respond to this Notice by either (i) sending an email to HDwagelawsuit@cptgroup.com or (ii) mailing the enclosed Request for Exclusion form. Your response must be emailed or postmarked **no later than August 20, 2021**.

Bell, et al. v. Home Depot USA, Inc. consolidated actions
c/o CPT Group, Inc.
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www.cptgroupcaseinfo.com/HDwagelawsuit

PLEASE DO NOT CONTACT THE COURT REGARDING THIS MATTER.