

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Michael Murphy, Individually and for Other Similarly Situated v.
Audubon Companies, LLC, Audubon Engineering Company, L.P.,
and Audubon Field Solutions, LLC

Murphy v. Audubon · No. 2:25-cv-00815 · Decided March 16, 2026

SUMMARY

The United States District Court for the Western District of Pennsylvania granted Michael Murphy’s motion for conditional certification of an FLSA collective action against Audubon Companies, LLC and related entities. The court found a sufficient modest factual showing that hourly Audubon field employees were similarly situated regarding the alleged exclusion of per diem and mileage payments from overtime-rate calculations. The court authorized notice with specified modifications, including a 60-day response period, a 30-day reminder, electronic distribution, and clarification that the collective was conditionally certified.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Maureen P. Kelly
JURISDICTION	United States District Court for the Western District of Pennsylvania
DECIDED	March 16, 2026
DOCKET	2:25-cv-00815
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for conditional certification of an FLSA collective action and court-authorized notice. The court granted conditional certification and authorized notice subject to specified modifications.
STANDARD OF REVIEW	At the first stage of FLSA collective-action certification, the court applies a lenient standard and determines whether the plaintiff has made a modest factual showing, based on the pleadings and supporting evidence, that the proposed collective members are similarly situated. The court reviews the content and method of notice for accuracy, timeliness, informativeness, and effectiveness.
PRECEDENTIAL VALUE	Unknown; memorandum opinion granting conditional certification

TOPICS

flsa wage and hour class actions civil procedure employment law

PRACTICE AREAS

employment law wage and hour civil procedure remedies

QUESTIONS PRESENTED

1. Whether Murphy made the modest factual showing required for conditional certification of an FLSA collective consisting of hourly Audubon employees who received per diem and mileage payments.
2. Whether the proposed notice should be approved and, if so, whether its scope, duration, delivery methods, and content should be modified.

HOLDINGS

1. Conditional certification was warranted because Murphy presented sufficient evidence, beyond speculation, that the proposed collective members were similarly situated with respect to Audubon's alleged practice of excluding per diem and mileage payments from the regular rate used to calculate overtime.
2. The collective should not be limited to inspectors, Pennsylvania employees, or employees identified by Audubon as having the same salary structure because the pleadings and evidence indicated that field employees, including but not limited to inspectors, were subject to the relevant pay practice in locations inside and outside Pennsylvania.
3. The court approved a sixty-day notice period with a thirty-day reminder and authorized distribution by first-class mail, email, and text message, subject to the court's required modifications to the notice.
4. The notice could not state that the court had allowed or certified a collective action without qualification; it had to state that the court had conditionally 'certified' a collective action.
5. The notice should advise potential opt-in plaintiffs that joining the collective may require participation in discovery and testimony at trial.

KEY QUOTATIONS

“This “conditional certification” is not really a certification at all—instead, “[i]t is actually the district court’s exercise of its discretionary power...to facilitate the sending of notice to potential class members, and is neither necessary nor sufficient for the existence of a representative action under the FLSA.”” (Section II)

“For the foregoing reasons, Murphy’s Motion for Conditional Certification, ECF No. 34, will be granted and the following class be conditionally certified pursuant to 29 U.S.C. § 219(b): All hourly Audubon employees who were paid a per diem and mileage at any time during the last three years through final resolution of this action (“Putative Class Members”).” (Section IV)

FACTUAL BACKGROUND

Audubon employed Murphy as a safety inspector and required him to travel to oil and gas pipeline sites. Murphy alleged that Audubon paid him and other hourly field employees per diem and mileage amounts but failed to include those payments in the regular rate used to calculate overtime for hours exceeding forty per week. Declarations and pay records indicated that other Audubon field employees were paid under similar arrangements, and two employees filed notices of consent to join the potential collective action.

PROCEDURAL HISTORY

Murphy filed claims under the Fair Labor Standards Act, the Pennsylvania Minimum Wage Act, and the Pennsylvania Wage Payment and Collection Law, alleging that Audubon improperly excluded per diem and mileage payments from employees' regular rates when calculating overtime. Murphy moved for conditional certification and court-authorized notice under 29 U.S.C. § 216(b). After briefing, declarations, and exhibits from both sides, the court granted the motion and ordered the proposed notice revised and resubmitted within fourteen days.

DISPOSITION

other

CASES CITED

- *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210-11 (3d Cir. 2009)
- *Thomas v. TEKsystems, Inc.*, No. 2:21-460, 2025 WL 756067, at *4 (W.D. Pa. Mar. 10, 2025)
- *Symezyk v. Genesis HealthCare Corp.*, 656 F.3d 189, 192-93 (3d Cir. 2011)
- *Genesis Healthcare Corp. v. Symezyk*, 569 U.S. 66 (2013)
- *Camesi v. Univ. of Pittsburgh Med. Ctr.*, 729 F.3d 239, 243 (3d Cir. 2013)
- *Zavala v. Wal-Mart Stores, Inc.*, 691 F.3d 527, 534, 536 & n.4 (3d Cir. 2012)
- *Kuznyetsov v. W. Penn Allegheny Health Sys., Inc.*, No. 10-948, 2011 WL 6372852, at *3 (W.D. Pa. Dec. 20, 2011)
- *Waltz v. Aveda Transp. & Energy Servs., Inc.*, No. 16-469, 2016 WL 7440267, at *2 (M.D. Pa. Dec. 27, 2016)
- *Bowser v. Empyrean Servs., LLC*, 324 F.R.D. 346, 352 (W.D. Pa. 2018)
- *Shiptoski v. SMG Grp., LLC*, No. 3:16-CV-1216, 2018 WL 11484967, at *3 (M.D. Pa. Jan. 31, 2018)
- *Galt v. Eagleville Hosp.*, 238 F. Supp. 3d 733, 737 (E.D. Pa. 2017)
- *Hoffmann-La Roche v. Sperling*, 493 U.S. 165, 169, 172, 174 (1989)
- *Joyce v. Colter Energy Servs. USA, Inc.*, No. 2:22-1367, 2024 WL 2794278, at *6 (W.D. Pa. May 31, 2024)
- *Moore v. Consol Pennsylvania Coal Co. LLC*, No. 2:23-1991, 2024 WL 1251418, at *8 (W.D. Pa. Mar. 22, 2024)
- *Garcia v. Vertical Screen, Inc.*, 387 F. Supp. 3d 598, 610-11 (E.D. Pa. 2019)
- *Belt v. P.F. Chang's China Bistro, Inc.*, No. 18-3831, 2020 WL 3829026, at *9 (E.D. Pa. July 8, 2020)
- *Weinmann v. Cont. Land Staff, LLC*, No. 2:22-01140, 2023 WL 3881394, at *6 (W.D. Pa. June 8, 2023)

- Lawrence v. Sun Energy Servs. LLC, No. 2:23-2155, 2024 WL 4493415, at *3 (W.D. Pa. Oct. 15, 2024)
- Halle v. W. Penn Allegheny Health Sys., 842 F.3d 215, 225-26 (3d Cir. 2016)
- Weller v. Dollar Gen. Corp., No. 17-2292, 2019 WL 1045960, at *2 (E.D. Pa. Mar. 4, 2019)

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