

# **NOTICE OF CLASS ACTION SETTLEMENT AND FINAL APPROVAL HEARING**

*Chapaloney v. Rosebud Mining Company, 24-cv-00580 (W.D. Pa.).*

Settlement Website:



[www.RosebudFLSACase.com](http://www.RosebudFLSACase.com)

*The Court authorized this Notice of Class Action Settlement.  
This is not a solicitation. This is not a lawsuit against you, and you are not being sued.*

## **PLEASE READ THIS NOTICE CAREFULLY.**

### **1. Why Should You Read This Notice?**

This Notice explains your right to receive money from this Settlement, exclude yourself (“opt out”) from the Settlement, or object to the Settlement (if applicable). The United States District Court for the Western District of Pennsylvania has preliminarily approved the Settlement as fair and reasonable. The Court will hold a Final Approval Hearing on July 1, 2025 at 10:00 a.m., before the Honorable Cathy Bissoon, in Courtroom 3A of the Joseph F. Weis, Jr. Courthouse, 700 Grant Street, Pittsburgh, PA 15219. You are not required to attend the hearing and you do not need to do anything in response to this notice, as explained below.

You received this Notice of Settlement (“Notice”) because the records of Rosebud Mining Company show you performed underground coal mining work for Rosebud between April 18, 2021, and October 18, 2024.

The parties to the lawsuit agreed to a binding settlement of this action, and you may be entitled to receive money from this settlement.

**If you do nothing, you will receive a check from the settlement as explained below.  
Rosebud encourages you to deposit the check and benefit from the settlement.**

### **2. What is this Lawsuit About?**

This case was brought by a former underground miner at Rosebud. He claims that he and other workers, including you, were not paid for time worked before and after the scheduled shifts and that Rosebud did not properly calculate overtime, including by including the payment of bonuses in the regular rate of pay. Plaintiff claims that Rosebud violated the Fair Labor Standards Act and Pennsylvania Law.

Rosebud denies Plaintiff’s claims and that it violated the Fair Labor Standards Act or Pennsylvania law. Rosebud asserts that it paid underground coal miners for all time worked before and after scheduled shifts, and that it accurately calculated the regular rate for purposes of paying overtime compensation.

A settlement is a compromise that allows the Parties to reach resolution through compromise. The Parties participated in a mediation with the assistance of a former Magistrate Judge of the United States District Court for the Western District of Pennsylvania. As a result of that mediation, the Parties have agreed to this settlement, instead of continuing to trial.

### 3. What Are the Terms of the Settlement?

Under the terms of the Settlement Agreement, Rosebud has agreed to pay Two Million Six Hundred Thousand Dollars (\$2,600,000.00) (the “Gross Settlement Amount”). This amount is “non-reversionary,” meaning no portion of the funds will be returned to Rosebud.

The Gross Settlement Amount includes amounts to cover (i) a \$20,000 Reserve Fund for late claims or disputes; (ii) a Service Award to the Plaintiff in the amount of up to \$10,000 in exchange for his service to the class and in addition for his broader release of claims; (iii) the Fee and Cost Payment to Class Counsel, not to exceed \$866,667 (i.e., one-third of the Gross Settlement Amount) plus costs not to exceed \$25,000; (iv) Settlement Administration costs in the amount not to exceed \$12,000; and (v) Settlement Awards. After deductions of amounts for payments in (i) - (iv) above, what remains of the Gross Settlement Amount shall be divided into monetary Settlement Awards to the Settlement Class and Collective Members calculated under the formula provided below.

***Under the terms of the proposed settlement, you do not need to do anything to receive a settlement award under the terms of the settlement, and a check will automatically be sent to you if the Court grants final approval to the settlement unless you choose to exclude yourself from the settlement as described below.***

### 4. How Much Can I Expect to Receive if the Settlement is Approved?

Your Settlement Award is calculated based on the records submitted by Defendant. Specifically, the settlement payments are calculated as follows:

The amount of \$50 is allocated to each Eligible Settlement Participant, so every person receives at least \$50 in exchange for his/her release in this Settlement Agreement. In addition to the \$50 payment, each Eligible Settlement Participant will receive a *pro rata* portion of the applicable Net Settlement Amount, calculated as follows:

- i. For each workweek during which the Eligible Settlement Participant worked one or more days between April 18, 2021, and October 18, 2024, the Eligible Settlement Participant shall receive one (1) settlement share.
- ii. The Net Settlement Amount will be divided by the total number of settlement shares for all Eligible Settlement Participants to reach a per share dollar figure. That figure will then be multiplied by each Eligible Settlement Participant’s number of settlement shares to determine the Eligible Settlement Participant’s Settlement Award.

Your total estimated settlement payment will be based on \_\_\_ workweeks for the time period between April 18, 2021, and October 18, 2024, as shown in Defendant’s records. Based on the formula above, your minimum estimated Settlement Award would be \$ \_\_\_\_\_. ***This amount is an estimate, and your final award may be different than this amount.***

If you have questions about the number of eligible workweeks used to calculate your Settlement Award, you may contact the Settlement Administrator at the contact information below and must submit any disputes by **May 13, 2025**.

Fifty (50%) of your Settlement Award represents back wages, and 50% represents liquidated damages or other non-wage payments. The Settlement Administrator will issue you an IRS Form W-2 for 50% of your payment and an IRS Form 1099 for the other 50% of your payment. Neither the Settlement Administrator nor the Parties can provide you with any tax advice. You should contact your accountant or tax related advisors for any questions about taxes you may owe on these amounts.

**It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.**

### 5. What are the Releases?

If the Court grants final approval of the Settlement, the lawsuit will be dismissed with prejudice against Defendant, and, upon the Effective Date, all Settlement Class Members who have not opted out of the Settlement will release Defendant and all Released Parties from all known and unknown claims and, demands, and causes of action that were asserted in the lawsuit based on the facts of the Complaint for overtime compensation, straight time, and minimum

wages), liquidated damages, penalties, interest, fees/costs, and any other relief otherwise available under the PMWA; any and all claims, demands, and causes of action seeking relief otherwise available under the PMWA; any and all claims, demands, and causes of action that could have been asserted in the lawsuit based upon the facts alleged in the operative complaint, including any and all state/local laws and regulations and common law theories under Pennsylvania law, including wage payment/deduction and notice claims such as under the PWPCL between April 18, 2021, and October 18, 2024.

With the exception of the Named Plaintiff, only Participating Settlement Class Members who cash or deposit their Settlement Award check will opt into this lawsuit and will release their Fair Labor Standards Act (FLSA) claims against Defendant and all Released Parties that accrued between April 18, 2021, and October 18, 2024. The full text of the Releases is contained in the Settlement Agreement and may be obtained from the Rosebud FLSA Settlement Administrator, P.O. Box 2003, Chanhassen, MN 55317-2003; Email: rosebudflsa@noticeadministrator.com.

## 6. What Are My Rights and Options?

- **Do Nothing:** If you do nothing and the Court grants final approval to the Settlement, you will automatically receive a Settlement Award. By cashing or depositing your Settlement Award, you will opt into the Collective Action part of this case which alleges FLSA violations, and you will release your FLSA claims. If you do nothing and the Court grants final approval to the Settlement, you also will release any state law claims, if applicable, as provided for in Section 5 above.

If you wish to participate in the settlement and receive your Settlement Award via PayPal or Venmo instead of check, you may elect to do so by submitting an Election Form on the Settlement Website: [www.RosebudFLSACase.com](http://www.RosebudFLSACase.com). If you are a current employee of Rosebud, you may also elect to receive your Settlement Award via direct deposit by submitting an Election Form on the Settlement Website: [www.RosebudFLSACase.com](http://www.RosebudFLSACase.com). If you do nothing and do not elect to receive payment via PayPal or Venmo or direct deposit, a check will be mailed to you following final approval of the Settlement.

- **Request for Exclusion/Opt-Out:** If you are a member of the Settlement Class and do not wish to be bound by the Settlement, you must submit a written exclusion from the Settlement (“opt-out”), postmarked by May 13, 2025. The written request for exclusion must contain your full name, address, telephone number, email address (if applicable), must be signed individually by you, and must unequivocally state that you request to be excluded from the settlement. A request for exclusion may be withdrawn by sending written notice of withdrawal of a request for exclusion to the Settlement Administrator. No opt-out request may be made on behalf of a group. A request for exclusion must be sent by mail to the Settlement Administrator, at Rosebud FLSA Settlement Administrator, P.O. Box 2003, Chanhassen, MN 55317-2003. Class Counsel will ensure that all exclusion letters are timely filed with the Court. You cannot exclude yourself by phone or by e-mail. **Any person who requests exclusion (opts out) of the Settlement will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal or comment thereon.**
- **Object:** If you are a member of the Settlement Class and wish to object to the Settlement, you must submit a signed written statement objecting to the Settlement by May 13, 2025. The statement must state the factual and legal grounds for your objection to the Settlement. Your objection must state your full name, address, telephone number, and email address (if applicable), whether you intend to appear at the Final Approval Hearing, the grounds on which you desire to appear and be heard (if any) at the Final Approval Hearing, if you are represented by counsel, and the name and address of your counsel (if any). Any objection must be sent by mail to the Settlement Administrator, at Rosebud FLSA Settlement Administrator, P.O. Box 2003, Chanhassen, MN 55317-2003. If you submit a written objection, you may also, if you wish, appear at the Final Approval Hearing to discuss your objection with the Court and the parties to the Lawsuit. Your written objection must state whether you will attend the Final Approval Hearing, the grounds on which you desire to appear and be heard (if any) at the Final Approval Hearing, whether you are represented by counsel, and the name and address of your counsel (if any). To be heard at the Final Approval Hearing you must also not have requested to be excluded from the Settlement. Class Counsel will ensure that all objection letters are timely filed with the Court. You cannot object by phone or by e-mail. If you wish to object to the Settlement but fail to return your timely written objection in the manner specified above, you shall be deemed to have waived any objection and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. The postmark date of mailing the objection to Class Counsel and Defendant’s counsel shall be the exclusive means for determining that an objection is timely mailed to counsel. Objections shall only be considered if the Settlement Class Member has not opted out of the Settlement.

## 7. Can Defendant Retaliate Against Me for Participating in this Lawsuit?

No. Your decision as to whether or not to participate in this Lawsuit will in no way affect your work or employment with Rosebud or future work or employment with Rosebud. It is unlawful for Rosebud to take any adverse action against you as a result of your participation in this Lawsuit. Rosebud encourages you to participate in the settlement, cash your settlement award, and release your claims.

## 8. What Does Rosebud Want Me To Do?

**Rosebud wants everyone to cash their checks and benefit from the Settlement.**

## 9. Who Are The Attorneys Representing Plaintiff And The Settlement Class?

Plaintiffs and the Settlement Class are represented by the following attorneys:

Shannon Draher  
**Nilges Draher PC**  
7034 Braucher Street NW, Suite B  
North Canton, OH 44720  
(234) 401-9089  
sdraher@ohlaborlaw.com

Sarah Schalman-Bergen  
Krysten Connon  
**LICHTEN & LISS-RIORDAN, P.C.**  
729 Boylston Street, Suite 2000  
Boston, MA 02116  
(267) 256-9973  
ssb@llrlaw.com  
kconnon@llrlaw.com

## 10. How Will the Attorneys for the Settlement Class Be Paid?

Class Counsel will be paid from the Gross Settlement Amount. You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that Class Counsel will receive attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount plus their out-of-pocket costs, not to exceed \$25,000. Class Counsel will file a motion requesting approval for this amount with the Court. The amount of attorneys' fees and costs awarded will be determined by the Court at the Final Approval Hearing.

## 11. Who May I Contact If I Have Further Questions?

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the email address listed below or Class Counsel listed above. Please refer to the Rosebud Coal Settlement.

Rosebud FLSA Settlement Administrator  
P.O. Box 2003  
Chanhassen, MN 55317-2003  
Email: rosebudflsa@noticeadministrator.com

You may also inspect the Court files at the Office of the Clerk, United States District Court for the Western District of Pennsylvania, during regular business hours (typically 8:30 a.m. to 4:30 p.m., Monday through Friday), or through the Court's Public Access to Court Electronic Records (PACER) online service.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is available through the Settlement Administrator and publicly accessible and on file with the Court.

**PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR ROSEBUD FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.**