

**If you worked as a Direct Energy Customer Service Representative in Arizona from October 21, 2013 to August 30, 2018, this class action notice may affect your rights.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- An Arizona employee has sued Direct Energy to recover unpaid compensation allegedly resulting from claimed violations of the Arizona Wage Statute, A.R.S. § 23-350, including alleged unpaid compensation for off the clock and overtime hours worked, as well as compensation for allegedly unpaid incentive pay. The employee also alleges that Direct Energy failed to factor in non-discretionary “incentive pay” that Representatives earned in determining the hourly rate used to calculate overtime pay under federal law.
- A Court has allowed the lawsuit to proceed as a class action comprised of (i) all current and former Direct Energy employees, (ii) who worked as customer service representatives, (iii) at a Direct Energy call center, (iv) in Arizona, (v) from October 21, 2013 to August 30, 2018. As part of the class action, the Court will consider whether Direct Energy violated Arizona law and whether Arizona employees will be eligible to receive unpaid compensation.
- The Court has not decided whether any law was broken. There is no money available now and no guarantee there will be. However, if you are a member of the Class described in this Notice, your rights are affected, and you have a choice to make now.
- The employee’s lawyers must prove their claims at a trial. A trial date has not yet been set. If money is obtained, you will be notified about how to ask for a share.
- Your options are explained in this notice. To ask to be removed from the lawsuit and avoid being bound by its determination, you must act by **February 19, 2019**.
- This notice concerns potential claims you may have under the Arizona Wage Statute as part of a Rule 23 class action – this is different from claims you may have under the federal Fair Labor Standards Act (“FLSA”). Earlier in this litigation you received a notice regarding your FLSA claims – any decisions you made in regard to the FLSA notice are separate and apart from your Rule 23 rights as set forth in this notice. The rights and obligations set forth in the FLSA notice are binding on your FLSA claims. Your decision with regard to this notice has no impact on, and will not be impacted by, your decision regarding whether to opt in to the FLSA collective action against Direct Energy.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:**

|                           |  |
|---------------------------|--|
| <b>DO NOTHING</b>         | <b>Stay in this lawsuit. Await the outcome. Share in possible benefits. Give up certain rights.</b><br><br>By doing nothing, you keep the possibility of getting money that may come from a trial or a settlement. But, you give up any rights to sue Direct Energy on your own about the same legal claims in this lawsuit and will be bound by the terms of any settlement or final ruling in this matter as to those claims at issue. |
| <b>ASK TO BE EXCLUDED</b> | <b>Get out of this lawsuit. Get no benefits from it. Keep rights.</b><br><br>If you ask to be excluded and money is later awarded, you will not receive any payment. But, you will keep any rights you have now regarding the same legal claims alleged in this lawsuit.   |

QUESTIONS? CALL 855-241-5962 OR VISIT [www.bffb.com/wagelawsuit](http://www.bffb.com/wagelawsuit).

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## BASIC INFORMATION

### 1. Why was this notice issued?

This notice explains that a Court has allowed, or “certified,” this case as a class action lawsuit that may affect you if you are a current or former Direct Energy employee, who worked as customer service representative, (at a Direct Energy call center, in Arizona, from October 21, 2013 to August 30, 2018). If this describes you, you may have legal rights and options before the Court decides whether the claims being made against Direct Energy on your behalf are correct.

Judge Steven Logan of the United States District Court for the District of Arizona is overseeing this Lawsuit, *Maribel Alvarez v. Direct Energy, et al.*, Case No. 2:16-cv-03657-SPL, and has determined that it can proceed as a class action.

### 2. What is this lawsuit about?

On October 21, 2016, Plaintiff Maribel Alvarez filed a Complaint in the United States District Court, District of Arizona against Direct Energy. Plaintiff was employed as a Customer Service Representative at Direct Energy who was responsible for fielding telephone calls from individuals about services provided by vendors that Direct Energy works with and referring them to appropriate vendors for service work.

Plaintiff Alvarez alleges that she and other employees who worked as Customer Service Representatives for Direct Energy in an Arizona call center are owed unpaid compensation under the Arizona Wage Statute, A.R.S. § 23-350, including compensation for alleged off the clock and overtime hours worked, as well as compensation for allegedly unpaid incentive pay. Plaintiff Alvarez also alleges that Direct Energy failed to factor in non-discretionary “incentive pay” that Representatives earned in determining the hourly rate used to calculate overtime pay.

If Plaintiff is successful in proving her claims, Plaintiff seeks to recover damages, on behalf of herself and other employees who worked as Customer Service Representatives for Direct Energy, in the amount of the unpaid compensation they have allegedly been denied, pre- and post-judgment interest on the amount of compensation allegedly denied, treble damages, an award of reasonable attorneys’ fees, costs and expenses, and such other relief as the Court may deem proper.

The defendants in this lawsuit include: Direct Energy Business Marketing, LLC, Direct Energy Business, LLC, dba De Business, LLC, Direct Energy Services, LLC, Direct Energy Contact Center, Clockwork Acquisition II, Inc., Direct Energy Leasing, LLC, fka Hwoa, LLC, Direct Energy US Home Services, Inc., dba De Direct Energy US Home Services, Inc., Direct Energy Marketing, Inc., Centrica Connect Home US, Inc., Centrica Holdco Gp, LLC, Centrica Holdco, Inc., Centrica US Holdings, Inc., Home Warranty Of America, Inc. Collectively, these defendants are referred to in this Notice as “Defendant” or “Direct Energy.”

In the lawsuit, Direct Energy denies all allegations in Plaintiff’s Complaint and asserts that it has properly compensated employees, and that no additional wages are owed to Plaintiff or the class members.

On August 30, 2018, the Court ruled that this case may proceed as a class action, and certified a class under the Arizona Wage Statute, A.R.S. § 23-350, described as:

[A]ll current and former Direct Energy employees, (ii) who worked as customer service representatives, (iii) at a Direct Energy call center, (iv) in Arizona, (v) from October 21, 2013 to August 30, 2018.

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The Court also ordered that the plaintiff, Maribel Alvarez, may serve as a representative of the class described above.

The Court's order certifying the Class does not predict or guarantee that Class Members will receive any money or benefits; that will be decided later in the Lawsuit. In certifying this case as a class action, the Court made no decision as to the merits of the Plaintiff's legal claims or Direct Energy's defenses.

Please note that the Court's order certifying the Class is conditional and may later be changed after the parties exchange evidence and the Court rules on various legal matters. In fact, the Court may even decertify the Class at any time before the Lawsuit is over. If the Court's order certifying the Class is not later revoked or decertified by the Court, all orders of this Court, whether good or bad for Plaintiff, will be binding on any Class Member who does not opt out or exclude themselves. This includes any judgments entered by the Court, whether or not favorable to the Class, will be binding on all Class Members who do not exclude themselves.

### 3. What is a class action and who is involved?

In a class action, one person called a "Class Representative" (in this case, Maribel Alvarez) sues on behalf of all people who have similar claims. Together, these people are called a "Class" or "Class members." The person who sued—and all Class members like her—is called a "Plaintiff" and Direct Energy is called a "Defendant."

The Court will resolve the issues for all Class members, except for those who exclude themselves from the Class. Members of the Class might receive money and other benefits if they stay in the Class but will be bound by the determinations of the case, whether positive or negative with regard to the claims asserted by the Class Representative.

### 4. Why is this lawsuit a class action?

The Court decided that this lawsuit could move towards a trial as a class action because it meets the requirements of Rule 23 of the Federal Rules of Civil Procedure, which governs class actions in federal court. For instance, the Court found that:

- There are legal questions and facts that are common to each of them;
- The Class Representative's claims are typical of the claims of the rest of the Class;
- The Class Representative and the lawyers representing the Class will fairly and adequately represent the interests of the Class; and
- A class action would be a fair, efficient and superior way to resolve this lawsuit.

More information about why the Court is allowing this lawsuit to be a class action is in the Court's Order Granting Motion for Class Certification, which you may view at [www.bffb.com/wagelawsuit](http://www.bffb.com/wagelawsuit).

## THE CLAIMS IN THE LAWSUIT

### 5. What does the lawsuit complain about?

Plaintiff Alvarez alleges that she and other employees who worked as Customer Service Representatives for Direct Energy in an Arizona call center are owed unpaid compensation under the Arizona Wage Statute, A.R.S. § 23-350, including compensation for off the clock and overtime hours worked, as well as compensation for unpaid incentive pay. Plaintiff Alvarez also alleges that Direct Energy failed to factor in non-discretionary "incentive pay" that Representatives earned in determining the hourly rate used to calculate overtime pay.

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You can read Plaintiff's Complaint at [www.bffb.com/wagelawsuit](http://www.bffb.com/wagelawsuit).

#### 6. How does Direct Energy answer?

Direct Energy denies all claims and allegations in the lawsuit. Direct Energy's Answer to the Complaint can be viewed at [www.bffb.com/wagelawsuit](http://www.bffb.com/wagelawsuit).

#### 7. Has the Court decided who is right?

The Court has not decided which side is right. By establishing the Class and ordering that this Notice be provided, the Court is not suggesting that Plaintiff will win or lose this case. Lawyers for Plaintiff must prove their case at a trial. A trial date has not yet been set.

#### 8. What is Plaintiff asking for?

Plaintiff seeks to recover money from Direct Energy, on behalf of herself and other employees who worked as Customer Service Representatives for Direct Energy, in the amount of the unpaid compensation they have allegedly been denied, pre- and post-judgment interest on the amount of compensation allegedly denied, treble damages, an award of reasonable attorneys' fees, costs and expenses, and such other relief as the Court may deem proper.

#### 9. Is there any money available now?

No money is available now because the Court has not yet decided whether Direct Energy did anything wrong and the two sides have not settled the case. There is no guarantee that money will ever be obtained. If it is, Class members will be notified about how to ask for a share.

## WHO IS IN THE CLASS

You need to decide whether you are affected by this lawsuit.

#### 10. Am I part of this class action?

The Court has allowed the lawsuit to include a class of:

All current and former Direct Energy employees, who worked as customer service representatives, at a Direct Energy call center, in Arizona, from October 21, 2013 to August 30, 2018.

#### 11. I am still not sure if I am included.

If you are still not sure whether you are included, you can call 855-241-5962, send an email to [wagelawsuit@bffb.com](mailto:wagelawsuit@bffb.com), or write to Ty D. Frankel or Patricia N. Syverson, 2325 East Camelback Road, Suite 300, Phoenix, Arizona 85016, for more information.

## YOUR RIGHTS AND OPTIONS

#### 12. What happens if I do nothing at all?

By doing nothing, you are staying in the Class. You do not have to do anything now if you want to keep the possibility of getting money from this lawsuit. If you stay in and Plaintiff obtains money

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either as a result of the trial or a settlement, you will be notified about how to ask for a share. Keep in mind that if you do nothing now, regardless of whether Plaintiff wins or loses the trial, you will not be able to sue, or continue to sue, Direct Energy—as part of any other lawsuit—about the same legal claims that are the subject of this lawsuit. You will also be legally bound by all orders the Court issues and judgments the Court makes in this class action and agree to allow Class Representative, Maribel Alvarez, to make decisions which affect your interests as a class member in this lawsuit.

### 13. Didn't I already get a notice about this?

Yes, earlier in this litigation you received a notice regarding your rights and obligations regarding potential claims you may have under the FLSA against Direct Energy. This notice is different because it concerns potential claims you may have under the Arizona Wage Statute as part of a Rule 23 class action. Any decisions you made in regard to the earlier FLSA notice are separate and apart from your Rule 23 rights as set forth in this notice. The rights and obligations set forth in the FLSA notice are binding on your FLSA claims. Your decision with regard to this notice has no impact on, and will not be impacted by, your decision regarding whether to opt in to the FLSA collective action against Direct Energy.

### 14. What happens if I ask to be excluded?

If you exclude yourself from the Class—which also means to remove yourself from the Class, and is sometimes called “opting-out” of the Class—you will not be eligible to receive money as a result of this lawsuit if Plaintiff obtains money as a result of the trial or from any settlement (that may or may not be reached) between Direct Energy and Plaintiff. However, you will retain whatever rights you currently have with regard to possible individual claims you may have against Direct Energy, you will not be bound by any judgment in this case, and Maribel Alvarez will not represent you as a member of the Class in this case.

You are entitled to contact legal counsel of your choice to discuss your rights as they may be affected by this matter or as otherwise related to your employment with Direct Energy.

### 15. How do I ask to be excluded?

To exclude yourself, you must send a letter that says you want to be excluded from *Alvarez v. Direct Energy*. Include your name, address, telephone number, and signature. You must submit a request for exclusion by mail to Ty D. Frankel or Patricia N. Syverson, 2325 East Camelback Road, Suite 300, Phoenix, Arizona 85016, no later than February 19, 2019.

**IF YOU DO NOT EXCLUDE YOURSELF BY THE DEADLINE ABOVE, YOU WILL REMAIN PART OF THE CLASS AND BE BOUND BY THE ORDERS OF THE COURT IN THIS LAWSUIT.**

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## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in this case?

The Court has appointed the followed lawyers to represent you as “Class Counsel.” The Court has found that these attorneys meet the adequacy requirement of the relevant rules to represent the class in this matter.

Ty D. Frankel  
Patricia N. Syverson  
BONNETT, FAIRBOURN,  
FRIEDMAN & BALINT, P.C.  
2325 East Camelback Road  
Suite 300  
Phoenix, Arizona 85016  
Telephone: (602) 274-1100

### 17. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel are working on your behalf. If you want your own lawyer to represent you in this litigation, you may have to pay that lawyer. You can ask him or her to appear in Court for you in this case if you want someone other than Class Counsel to speak for you.

### 18. How will the lawyers be paid?

If Class Counsel obtains money or other benefits for Class members, they may ask the Court for fees, costs and expenses. You will not have to pay any of these fees, costs and expenses. If the Court grants their request, the fees, costs and expenses would be deducted from any money obtained for Class members or paid separately by Direct Energy.

## THE TRIAL

### 19. How and when will the Court decide who is right?

If the case is not dismissed or settled, Class Counsel will have to prove Plaintiff’s claims at a trial. A trial date has not yet been set. During the trial, the Judge and/or a jury will hear all of the evidence, so that a decision can be reached about whether Plaintiff is right about her claims in the lawsuit. Plaintiff will have to prove her claims. There is no guarantee that Plaintiff will win or that she will get money for the Class.

Class Counsel will present the case for Plaintiff, and the lawyers for Direct Energy will present their defenses. You and/or your own lawyer are welcome to come, at your own expense. Check the website to be kept informed of the trial schedule.

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**20. Will I get money after the trial?**

If Plaintiff obtains money as a result of the trial or a settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Court orders and other important information about the case may be posted on the website, [www.bffb.com/wagelawsuit](http://www.bffb.com/wagelawsuit), as it becomes available.

**GETTING MORE INFORMATION**

**21. Are more details available?**

Visit the website at [www.bffb.com/wagelawsuit](http://www.bffb.com/wagelawsuit), where you will find the Court's Order Granting Motion for Class Certification, Plaintiff's Complaint and Defendant's Answer to the Complaint. For more information, you may call 855-241-5962, send an email to [wagelawsuit@bffb.com](mailto:wagelawsuit@bffb.com) or write to Ty D. Frankel or Patricia N. Syverson, 2325 East Camelback Road, Suite 300, Phoenix, Arizona 85016.

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