

July 8, 2014

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND FAIRNESS HEARING

TO: All current and former employees who were paid according to the City of Cleveland’s Time and Attendance/Kronos Guidelines policy and were denied overtime pay due to application of the policy between January 1, 2011 and the present.

FROM: Judge Christopher A. Boyko, United States District Court for the Northern District of Ohio.

RE: Proposed Settlement in *Cheryl Armbruster v. City of Cleveland*, U.S. District Court, Northern District of Ohio, Case No. 1:13-cv-2626.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
YOU CAN DO NOTHING	If you do nothing, you will be eligible to receive a monetary payment under the settlement if it is approved, unless you currently receive “comp time” in lieu of overtime, in which case you will receive “comp time.” You give up rights to sue the Defendant as part of another lawsuit over the claims resolved by this settlement.
YOU CAN ASK TO BE EXCLUDED	If you ask to be excluded, you will not be eligible to receive a payment under the settlement. You may not object. But you may file your own lawsuit over claims resolved by this settlement.
YOU CAN OBJECT	You can write the Court about why you don’t agree with the settlement. If you object, you will still be eligible to receive a payment under the settlement if it is approved.
YOU CAN ELECT A MONETARY PAYMENT INSTEAD OF “COMP TIME”	If you currently receive “comp time” in lieu of overtime, you can choose to receive a monetary payment instead of “comp time” by signing and returning the enclosed Overtime Election Form.
YOU CAN GO TO A HEARING	If you do not ask to be excluded, you can ask to speak in Court about the settlement.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Monetary payments under the settlement will only become available if the Court approves the settlement and the settlement becomes final. Please be patient.
- Your legal rights are affected whether you act, or don’t act. Read this Notice carefully.

BASIC INFORMATION

1. Why was this Notice issued?

This Notice informs you of the Court’s preliminary approval of a proposed settlement of a class action lawsuit, advises you of your rights as a Class Member, and tells you how to receive a share of the settlement funds. Please read this Notice carefully. The proposed settlement affects your legal rights.

2. What is this lawsuit about?

The lawsuit was filed against Defendant City of Cleveland on November 26, 2013 as a collective and class action under the Fair Labor Standards Act (“FLSA”) and Ohio Minimum Fair Wage Standards Act (“OMFWSA”). The Representative Plaintiff is Cheryl Armbruster, who has worked for the City of Cleveland since 2001.

The lawsuit alleges that the City of Cleveland violated the FLSA and OMFWSA by improperly rounding the starting and stopping times of its non-exempt employees. Plaintiff and other similarly-situated employees were paid according to Defendant’s Time and Attendance/Kronos Guidelines policy. The lawsuit claims that this policy was unlawful under 29 C.F.R. § 785.48 because it did not round employees’ time up and down to the nearest time increment, but provided that the starting and stopping times of Plaintiff and similarly-situated employees were always rounded against them. The City of Cleveland denies Plaintiff’s claims made in the lawsuit, raises affirmative defenses to such claims, and believes it has paid its employees in accordance with the law.

3. Why is this a class action?

In a class action, a person called a “Class Representative” sues on behalf of people who the Court determines have similar claims. All these people are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. **Why is there a settlement?**

The Court did not decide in favor of Plaintiff or the City of Cleveland. Instead, both sides agreed to settle this case to avoid the cost, time, and uncertainty of further litigation. The Court has granted preliminary approval of the settlement. The settlement does not mean that any law was broken or that Defendant did anything wrong. Defendant denies all legal claims in this case. The Class Representative and her attorneys think the settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT

5. **How do I know if I am part of the settlement?**

All Class Members are part of the settlement. Class Members include all current and former employees who were paid according to the City of Cleveland's Time and Attendance/Kronos Guidelines policy and were denied overtime pay due to application of the policy between January 1, 2011, and the present.

WHAT WILL YOU GET AND WHEN, AND WHAT ARE YOU GIVING UP

6. **What does the settlement provide?**

If final approval of the settlement is granted, the City of Cleveland's Settlement Payment of \$2,200,000.00, after deductions approved by the Court, will be divided proportionally into Individual Payments for which the Representative Plaintiff and the Class Members will be eligible. Under Plaintiff's theory of the case, during the two-year limitations period for non-willful violations (January 1, 2012 through March 3, 2014), Representative Plaintiff and the Class Members were denied about \$1,773,731.00 in overtime compensation, and during the three-year limitations period for willful violations (January 1, 2011 through March 3, 2014), Representative Plaintiff and the Class Members were denied about \$2,606,495.00 in overtime compensation. Under Defendant's grace period theory, Representative Plaintiff and the Class Members were denied, if anything, about \$443,784.00 in overtime during the two-year limitations period, and about \$647,437.00 in overtime during the three-year limitations period.

As such, the Proposed Settlement recovers, under Plaintiff's theory, more than full relief for lost overtime during the two-year look back period. Under Defendant's theory, the Class Members are recovering in excess of what the City calculates damages to be.

The deductions consist of attorneys' fees in the amount of one-third of the Settlement Payment, actual litigation expenses of approximately \$2,000.00 to \$4,000.00, and a Service Award in the amount of \$20,000.00 to the Representative Plaintiff. The Service Award compensates the Representative Plaintiff for discovering the rounding claim and reporting it to Class Counsel, assisting Class Counsel, attending meetings with Class Counsel, attending mediation conferences, undertaking the responsibilities and burdens of serving as named plaintiff in a lawsuit, and entering into a general release of all claims with Defendant.

7. **How do I get a settlement payment?**

To participate in the settlement, you are not required to do anything. You are automatically eligible to receive an Individual Payment. Checks will be mailed to all Class Members eligible for a monetary payment at the addresses listed in Defendant's records. If your address has changed, you must send your name and current mailing address to the Settlement Administrator, *Armbruster v. City of Cleveland* Settlement Administrator, P.O. Box 43034, Providence, RI 02940-3034. All applicable taxes under federal, state, and/or local laws will be withheld from each Individual monetary Payment to Class Members and IRS W-2 Forms will be issued for all Individual monetary Payments to Class Members.

8. **If I currently receive "comp time" in lieu of overtime, how can I get a monetary payment instead?**

If you currently receive "comp time" in lieu of overtime, an Overtime Election Form is enclosed for you to sign and return in order to receive a monetary payment instead of "comp time." You must mail your Overtime Election Form by August 7, 2014 to the Settlement Administrator, *Armbruster v. City of Cleveland* Settlement Administrator, P.O. Box 43034, Providence, RI 02940-3034. If you do not timely submit the Overtime Election Form, you will receive "comp time" instead of a monetary payment.

9. **When will I get my payment or "comp time"?**

Individual Payments will be mailed and comp time will be deposited in two equal installments. The first monetary installment will be mailed to Class Members on approximately December 20, 2014, and the second monetary installment will be mailed on approximately February 6, 2015. For Class Members receiving their Individual Payment in comp time, comp time will be deposited into Class Members' comp time banks in two installments as well, the first beginning on December 15, 2014 and the second beginning on February 1, 2015. As of that date, you will be able to use the additional comp time in accordance with all of Defendant's policies and procedures applicable to the use of comp time.

10. **What am I giving up to get a payment or stay in the Class?**

The Settlement Agreement includes the following release of claims:

Upon the Effective Date, and except as to such rights or claims as may be created by this Settlement Agreement, the Representative Plaintiff, and all Class Members who did not submit timely and effective requests for exclusion fully release and discharge Defendant and all present and former parent companies, subsidiaries, related entities, shareholders, officers, directors, employees, agents, affiliates, representatives, attorneys, insurers, successors, and assigns, from any and all Released Claims as hereafter defined. The “Released Claims” shall consist of any and all federal and state wage-and-hour claims, rights, demands, liabilities and causes of action asserted in Plaintiff’s Complaint, filed on November 26, 2013, including but not limited to claims for unpaid wages, unpaid overtime compensation, liquidated damages, interest, attorneys’ fees, and expenses, pursuant to the Fair Labor Standards Act and the Ohio Minimum Fair Wage Standards Act, for the Released Period. The “Released Claims” shall also consist of any and all statutory and common law claims, rights, demands, liabilities, and causes of action for unpaid wages, unpaid overtime compensation, liquidated damages, interest, attorneys’ fees and expenses, and any other damages, amounts, or remedies based on Defendant’s Time and Attendance/Kronos Guidelines policy in all weeks worked during the Released Period, including but not limited to any potential claims under the Ohio Prompt Pay Act (R.C. § 4113.15), implied contract, unjust enrichment, and estoppel.

The “Released Period” for Plaintiff and the Class shall mean the period between January 1, 2011, and the date the District Court enters final approval.

If the Court grants final approval of the settlement, you will be bound by the release of claims, unless you have excluded yourself from the settlement in the manner described below. When claims are “released,” that means that you cannot sue the City of Cleveland for any of the claims that are covered by the release.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in this case?

The Court appointed Christopher M. DeVito of Morganstern, MacAdams & DeVito Co., L.P.A. and Anthony J. Lazzaro and Sonia M. Gassan of The Lazzaro Law Firm, LLC to represent you and other Class Members as “Class Counsel.” You do not have to personally pay Class Counsel. You can reach Class Counsel by phone at (216) 696-5000 for Mr. Lazzaro and (216) 687-1212 for Mr. DeVito. You may call Class Counsel to discuss any questions you may have about this settlement. If you want to be represented by your own lawyer, and have that lawyer appear in court for you in this case, you may hire one at your own expense.

12. Class Counsel’s recommendation.

Class Counsel strongly recommends the settlement, which offers valuable payments to Class Members without the risk, uncertainty, and delay of continuing with the lawsuit. If the Court grants final approval of the settlement and if the settlement becomes effective, every Class Member will receive an Individual Payment in the form of a monetary payment or “comp time” as described above. Class Members do not need to take any action to receive their Individual Payments. Class Members who currently receive “comp time” in lieu of overtime can elect to get a monetary payment instead of “comp time” by mailing back the enclosed Overtime Election Form.

IF YOU DO NOTHING

13. What happens if I do nothing at all?

If you do nothing, and the settlement is approved by the Court and becomes final, you will receive an Individual Payment in the form of a monetary payment or “comp time.” If you do nothing, you will also give up rights to sue the Defendant as part of another lawsuit over the claims resolved by this settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. How do I get out of the settlement?

To exclude yourself from the settlement, you must mail a letter saying you want to be excluded from *Armbruster v. City of Cleveland*. Be sure to include the case number (No. 1:13-cv-2626), your full name, address, and signature. You must mail your request for exclusion postmarked by August 7, 2014 to the Settlement Administrator, *Armbruster v. City of Cleveland* Settlement Administrator, P.O. Box 43034, Providence, RI 02940-3034. You can’t exclude yourself on the phone, by email, or on Class Counsel’s website.

15. If I do not exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Defendant for all of the claims released in this proposed settlement. You must exclude yourself to start your own lawsuit, continue with a lawsuit, or be part of any other lawsuit relating to Defendant’s Time and Attendance/Kronos Guidelines.

16. If I exclude myself, can I get benefits from this settlement?

No. If you exclude yourself, you will not receive an Individual Payment and you cannot object to the proposed settlement. However, if you ask to be excluded, you may sue, continue to sue, or be part of a different lawsuit against the Defendant in the future regarding claims resolved by this settlement. You will not be bound by anything that happens in this lawsuit.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I do not like the settlement?

If you stay in the Class and you do not want the Court to approve the settlement, you must file a written objection within 30 days. You must give reasons why you think the Court should not approve it. To object, send a letter saying that you object to *Armbruster v. City of Cleveland*. Be sure to include the case number (No. 1:13-cv-2626), your name, address, telephone number, your signature, the reasons why you object to the settlement, all documents you want the Court to consider and a "Notice of Appearance" if you hired your own lawyer to represent you in this objection. You must mail the objection to each of the three addresses below so that it is postmarked no later than August 7, 2014. Late objections will not be considered. If you either approve of the settlement or choose to exclude yourself you do not need to object.

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of Court Carl B. Stokes U.S. Court House 801 West Superior Avenue Cleveland, Ohio 44113	Anthony J. Lazzaro Sonia M. Gassan The Lazzaro Law Firm, LLC 614 W. Superior Avenue, Suite 920 Cleveland, Ohio 44113 http://www.lazzarolawfirm.com/ or Christopher M. DeVito Morganstern, MacAdams & DeVito 623 West Saint Clair Avenue Cleveland, Ohio 44113-1204 http://www.mmd-law.com/	Robert M. Wolff Inna Shelley Littler Mendelson, P.C. 1100 Superior Avenue, 20th Floor Cleveland, Ohio 44114

18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself from this settlement is telling the Court that you don't want to be part of the Class. If you exclude yourself, you cannot object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a fairness hearing to decide whether to approve the settlement. You may attend and ask to speak, but you do not have to.

19. When and where will the Court decide whether to approve the settlement?

The Court has scheduled a Fairness Hearing at 3:00 p.m. on September 24, 2014 at the United States District Court for the Northern District of Ohio, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113 in Courtroom 15A. The hearing may be moved to a different date or time without notice, so if you plan to attend, you should call or email Class Counsel for current information. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak about an objection (*see* Objecting to the Settlement). At or after the hearing, the Court will decide whether to approve the settlement.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions that the Court may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend.

21. May I speak at the hearing?

Yes. You, or an attorney you hire at your own expense, may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear in *Armbruster v. City of Cleveland*." Be sure to include your name, address, telephone number, your signature, any documents you will seek to introduce and witnesses who you want to testify at the hearing. Your Notice of Intent to Appear must be postmarked no later than August 7, 2014, and be sent to the Clerk of Court, Northern District of Ohio, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113. You cannot speak at the hearing if you excluded yourself from the Class.

GETTING MORE INFORMATION

22. How do I get more information about the settlement?

This Notice summarizes the proposed settlement. More details about the settlement are in the Settlement Agreement. You can get a copy of the Settlement Agreement by emailing Class Counsel at anthony@lazzarolawfirm.com or devitolaw@yahoo.com, who will email, fax, or mail a copy of the Settlement Agreement to you upon request.

IF YOU HAVE QUESTIONS OR NEED FURTHER INFORMATION, PLEASE CONTACT
CLASS COUNSEL LAZZARO AT (216) 696-5000 OR ANTHONY@LAZZAROLAWFIRM.COM
OR CLASS COUNSEL DEVITO AT (216) 687-1212 OR DEVITOLAW@YAHOO.COM.

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THE SETTLEMENT.