

court will "conditionally certify" the collective action for the purpose of facilitating notice to potential opt-in plaintiffs and conducting pre-trial discovery. Those individuals may then "consent in writing" to become a "party plaintiff" in the action by filing their consent with the Court. 29 U.S.C. §216(b).

b. At the second step, with the benefit of discovery, the court then makes a conclusive determination as to whether each Plaintiff who has opted in to the collective action is in fact similarly situated to the named plaintiffs, considering such factors as disparate factual and employment settings, defenses available to the defendant which may be individualized, fairness and procedural considerations.

See Camesi v. Univ. of Pittsburgh Med. Ctr., 729 F.3d 239, 243 (3d Cir. 2013).

3. To avoid the expense associated with motion practice on the "first step" conditional certification, the Parties have reached the following agreement:

a. The Parties agree to "first step" conditional certification of all individuals employed as Case Managers or Outcome Specialists in Community Umbrella Agency (CUA) 3, 5, 9 or 10 during any time since January 12, 2016. Notice will be issued to these individuals (other than Originating Plaintiffs and Current Opt-Ins), who are referred to as "Putative Collective Members." Any Putative Collective Members who join the action by the deadline specified in the Notice are referred to as "Future Opt-Ins."

b. The limitations period applicable to the Fair Labor Standards Act ("FLSA") claims of Originating Plaintiffs and any Current Opt-Ins who joined the action prior to December 11, 2017 will run backwards two years from the date on which he/she joined the action. The limitations period applicable to the FLSA claims of all other Current and Future Opt-Ins will run backwards 1063 days from the date on which they opt in.

4. As to the second step of conditional certification, Defendants reserve their right to move to decertify the collective or otherwise argue that collective litigation is wholly or partially inappropriate, including because the Future Opt-Ins are not "similarly situated" with respect to the claims they assert.

5. Originating Plaintiffs will not pursue their Pennsylvania Minimum Wage Act ("PMWA") claim as a class action claim under Federal Rule of Civil Procedure 23. However, Originating Plaintiffs, Current Opt-Ins, and Future Opt-Ins will continue to assert PMWA claims, and the limitations period applicable to such PMWA claims is tolled as of October 17, 2017.

6. Within 15 calendar days of the Court's entry of this Order, Defendants' counsel will email to a mutually agreed upon claims administrator an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member.

7. Within 30 calendar days of the Court's entry of this Order, the claims administrator will mail to all Putative Collective Members finalized copies of the attached "Notice of Collective Action Lawsuit" form, "Consent to Join" form ("Consent Form"), and a postage-paid return envelope (together the "Notice Package"). Defendants will pay for the cost of the claims administrator. If any Notice Package is returned as undeliverable, the claims administrator will make all reasonable efforts to update the address information and re-send the Notice Package.

8. In order to participate in this action, a Putative Collective Member must complete his/her Consent Form and return it in an envelope postmarked on or before the deadline indicated in the Notice Package, which will be set at 45 calendar days after the initial mailing date.

9. The claims administrator will forward to counsel for both Parties completed Consent Forms within 3 business days of receipt, and Plaintiffs' counsel shall file same with the Court.

10. Within 90 calendar days of the Court's entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation.

11. Discovery is **STAYED** pending the completion of the above-described notice and opt-in process.

FOR PLAINTIFFS:

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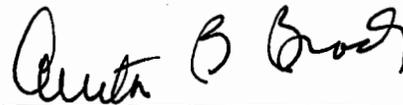
FOR DEFENDANTS:

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SO ORDERED:

Dated: _____

10/1/18



Hon. Anita Brody, J.

Copies via ECF 10/1/18

[insert date]

NOTICE OF COLLECTIVE ACTION LAWSUIT

Morris, et al. v. Public Health Management Corporation and Turning Points for Children
2:17-cv-04620-AB

United States District Court, Eastern District of Pennsylvania

TO: [INSERT NAME]

PLEASE READ THIS NOTICE CAREFULLY

INTRODUCTION

This Notice informs you of a collective action lawsuit against Turning Points for Children (TPC) and Public Health Management Corporation (PHMC) seeking unpaid overtime wages under federal and Pennsylvania law on behalf of salaried Case Managers and Outcome Specialists employed in CUAs 3, 5, 9, and 10. You have a right to participate in the lawsuit.

DESCRIPTION OF THE LAWSUIT

In October 2017, a Case Manager named Marvella Morris and a former Outcome Specialist named Noel Cord (together "Plaintiffs") started this lawsuit against TPC and PHMC. Since then, additional individuals have joined the lawsuit. The lawsuit is proceeding in the United States District Court in Philadelphia, PA and is assigned to Judge Anita Brody.

The lawsuit alleges that TPC and PHMC violate federal and state wage laws by failing to pay overtime compensation when Case Managers and Outcome Specialists work over 40 hours in a week. The lawsuit seeks the recovery of unpaid overtime wages, liquidated damages, attorney's fees and costs.

TPC and PHMC deny the allegations, and maintain that under governing law, Case Managers and Outcome Specialists are properly classified as "exempt" professionals who are not eligible for overtime pay.

The lawsuit is in its early stages. The Federal Court has not decided who will win.

Individuals employed during any time after January 12, 2016 as Case Managers or Outcome Specialists in CUAs 3, 5, 9, or 10 are eligible to join the lawsuit. According to TPC's records, you were employed as a Case Manager or Outcome Specialist during this period.

HOW TO JOIN THE LAWSUIT

You can join the lawsuit by completing the enclosed "Consent to Join" form and returning it in the enclosed envelope to the [claims administrator]:

[CLAIMS ADMINISTRATOR]

Your return envelope must be postmarked by [insert date]. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

EFFECT OF JOINING THE LAWSUIT

If you join the lawsuit, you will be bound by the judgment of the Federal Court on all issues, including the reasonableness of any settlement. If Plaintiffs win, individuals who join the lawsuit may be eligible for a money payment. If PHMC and TPC win, individuals who join the lawsuit will be entitled to nothing.

If you join the lawsuit, you may be required to participate in the “discovery” process by, for example, gathering and producing documents, answering some written questions under oath, and, possibly, sitting for a deposition. The law firm described below will represent you throughout the lawsuit.

RETALIATION PROHIBITED

If you join the lawsuit, federal law prohibits TPC or PHMC from retaliating against you as a result of your participation.

EFFECT OF NOT JOINING THE LAWSUIT

If you do not join the lawsuit, you will not be affected by any judgment or settlement resulting from the lawsuit, whether it is favorable or unfavorable.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025 (unless and until you retain your own lawyer who enters his or her appearance in the lawsuit on your behalf). The firm’s website is www.winebrakelaw.com, and its phone number is (215) 884-2491.

You are not required to pay any fees to this law firm. The firm has taken this case on a “contingency” basis. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

Please call the above law firm if you have any questions or desire any additional information about the lawsuit.

THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE ANITA BRODY. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT’S MERITS.

