

## **NOTICE OF COLLECTIVE ACTION LAWSUIT**

**\*\*\* THIS IS NOT AN ADVERTISEMENT FROM A LAWYER\*\*\***

*Debra Dollery v. Post Acute Medical, LLC, et al.*  
**United States District Court, Southern District of Texas**  
**Case No. 6:18-cv-00104**

**TO:** All non-exempt registered nurses, licensed practical nurses, licensed vocational nurses, certified nursing assistants, and nursing aides employed by Defendants and paid on an hourly rate basis at any time from March 16, 2017 to the Present.

**RE:** Overtime Lawsuit Against Post Medical, LLC, Post Acute Medical Management, LLC, and Post Acute Medical at Victoria, LLC (collectively, "Post Acute").

**DEADLINE TO RETURN OPT-IN CONSENT FORM: NOVEMBER 23, 2020**

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**PLEASE READ THIS NOTICE CAREFULLY.  
THIS NOTICE COULD AFFECT YOUR LEGAL RIGHTS.**

### **I. INTRODUCTION**

You received this Notice because the Court in charge of this lawsuit has ordered this Notice be sent to persons who are identified by Post Acute's records as a current or former direct patient care nurse who worked for Post Acute in the past three years.

The Court has conditionally allowed or "certified" a collective action lawsuit that may affect you. This Notice is intended to advise you of how your rights under the Fair Labor Standards Act ("FLSA") may be affected by this lawsuit and describe how to participate in this suit, should you choose to do so.

**YOU HAVE NOT JOINED THE LAWSUIT UNTIL YOU RETURN THE "OPT-IN CONSENT FORM" PROVIDED WITH THIS NOTICE TO THE NOTICE ADMINISTRATOR LISTED BELOW.**

### **II. DESCRIPTION OF THE LAWSUIT**

This lawsuit is brought on behalf of current and former hourly, non-exempt direct patient care nurses, nursing assistants, and nursing aides of Post Acute Medical, LLC, Post Acute Medical Management, LLC and Post Acute Medical at Victoria, LLC who provided patient care services at a Post Acute facility in the United States during the time period of March 16, 2017 through the Present.

This lawsuit was filed against Post Acute on December 18, 2018 in the United States District Court for the Southern District of Texas.

The Plaintiff in this lawsuit alleges that Post Acute’s current and former, hourly, non-exempt direct patient care nurses, nursing assistants, and nursing aides who worked at Post Acute and/or Warm Spring facilities failed to receive overtime payment for all hours worked over forty in a workweek. The Plaintiff claims that she was not paid or compensated for overtime for time spent working before and after scheduled shifts and for time spent working during unpaid meal breaks.

Plaintiff, on behalf of herself and all similarly situated workers employed by Post Acute, seeks to recover payment for alleged unpaid overtime, interest thereon, and liquidated damages, reasonable attorneys’ fees, and litigation costs. The Court has conditionally certified this case for the purpose of authorizing Notice of this lawsuit be sent to all current and former non-exempt, hourly direct patient care nurses, nursing assistants, and nursing aides who have been employed by Post Acute at one or more of its healthcare facilities in the United States during the time period of March 16, 2017, through the Present.

Post Acute denies Plaintiff’s allegations and contends that Plaintiff and other current and former direct patient care nurses have been and continue to be properly paid under the FLSA. Post Acute further denies that this case can properly be litigated and adjudicated as a collective action. Post Acute also maintains that it properly paid and pays overtime to employees at its healthcare facilities.

The Court has not decided who is right but has authorized this Notice to inform you of your right to join this lawsuit.

### **III. YOUR RIGHT TO PARTICIPATE IN THIS SUIT**

You may join, or “opt in” to, this lawsuit by submitting your “Opt-In Consent Form” to the Notice Administrator by: (1) visiting the following website [www.PostAcuteOvertime.com](http://www.PostAcuteOvertime.com) and submitting your completed “Opt-In Consent Form” electronically, (2) emailing your completed “Opt-In Consent Form” to [info@postacuteovertime.com](mailto:info@postacuteovertime.com), or (3) mailing your completed “Opt-In Consent Form” to the Notice Administrator at the following address:

POST ACUTE FLSA LITIGATION  
c/o Notice Administrator  
PO Box 42108  
Philadelphia, PA 19101-2108

You are not required to join or “opt in” to this lawsuit, but if you wish to do so, the “Opt-In Consent Form,” must be returned to the Notice Administrator in sufficient time for it to be filed with the federal court on or before **November 23, 2020**. If you fail to return the “Opt-In Consent Form” to the Notice Administrator in time for it to be filed with the federal court by this deadline date, you may not be able to participate in this lawsuit.

You are not required to join or “opt in” to this lawsuit and may choose to take no action without consequence to you.

If you file an “Opt-In Consent Form,” your continued right to participate in pursuing these FLSA claims in this action may depend upon a later decision by the Court as to whether you and the named Plaintiff are “similarly situated” in accordance with federal law.

#### **IV. EFFECT OF JOINING THIS SUIT**

If you choose to join this suit, you will be bound by the judgment or settlement, whether it is favorable or unfavorable as to claims made in this action under the FLSA. If the Court or jury rules in favor of the Post Acute, you will not be entitled to any relief under the FLSA if you join this action. By timely completing and filing the “Opt-In Consent Form”, you are designating the Named Plaintiff and her attorneys as your agents to make decisions on your behalf concerning the litigation. If you timely complete and file the enclosed “Opt-In Consent Form”, you agree to be bound by the terms of any settlement agreement reached between the Named Plaintiff(s) and Post Acute and the attorneys representing the respective parties in this case.

If you submit and file a timely “Opt-In Consent Form”, you will be a party to the case unless the Court determines this case cannot proceed as a Collective Action.

If you desire, however, you also may retain a different lawyer to represent you and have that lawyer enter an appearance in this lawsuit on your behalf, or you may choose not to retain a lawyer and represent yourself in this action within the applicable statute of limitations period.

#### **V. NO LEGAL EFFECT IN NOT JOINING THIS SUIT**

If you choose not to join this suit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable. If you choose not to join in this lawsuit, you are free to file your own lawsuit or you may choose to take no action.

#### **VI. NO OPINION EXPRESSED AS TO THE MERITS OF THE CASE**

This Notice is for the sole purpose of determining the identity of those persons who wish to join and participate in this lawsuit. Although the United States District Court for the Southern District of Texas has authorized the sending of this Notice, the Court expresses no opinion regarding the merits of Plaintiff’s claims or Post Acute’s defenses.

#### **VII. NO RETALIATION PERMITTED**

Many employees fear being retaliated against, either through reduced hours, unfavorable work schedules, or termination, for making a wage claim. However, federal law prohibits Post Acute from discharging or in any other manner discriminating or retaliating against you because you have exercised your rights under the FLSA to join, or not to join, this action. If you suspect any retaliation or discrimination, call the attorneys below at (415) 421-7100 immediately and ask to speak to one of the attorneys named below.

## **VIII. YOUR LEGAL REPRESENTATION IF YOU JOIN**

You can get more information by calling or emailing Plaintiff's attorneys:

**Attorneys:**

Carolyn H. Cottrell  
David C. Leimbach  
William M. Hogg

**Address/Phone/Email:**

SCHNEIDER WALLACE  
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whogg@schneiderwallace.com

**You should not contact the Court to discuss this matter.**

**\*\*PLEASE NOTE\*\***

There is a two (2) year deadline for filing overtime claims or three (3) years if the violation is determined to be willful. This deadline continues to run until you "opt in" to this conditionally certified Collective Action. If you wish to participate in this Collective Action, return your "Opt-in Consent Form" as soon as possible so that your rights may be preserved.