

On May 2, 2019, Defendants filed an answer denying the allegations raised by Plaintiff in her Complaint. *See* Dkt. 21. Defendants contend that Plaintiff and the Collective were paid for all hours worked, including the legally mandated overtime premium for all hours worked over forty in a workweek. *Id.*

The Parties have met and conferred, and agreed to stipulate to conditionally certify the case as a collective action. Given the low threshold for conditional certification under the FLSA § 216(b), and to promote efficiency and to conserve resources among the Parties and the Court, the Parties have agreed to stipulate to the Court's entry of an order conditionally certifying a nationwide FLSA Collective.

Under the terms of the Parties' Stipulation, Plaintiff seeks to notify a "Stipulated Collective" consisting of:

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.¹

The decision by Defendants not to oppose the conditional certification of the FLSA collective action does not constitute an admission that the named Plaintiff meets the conditions necessary for certification of a FLSA collective action. Defendants retain the right to move to decertify the Collective action and/or oppose any request by Plaintiff for final certification of this Collective action.

The Parties stipulate that Carolyn H. Cottrell, David C. Leimbach, and William M. Hogg of Schneider Wallace Cottrell Konecky LLP shall serve as counsel for the collective, and Debra Dollery shall serve as the representative for the collective members. Defendants retain the right to

¹ The Parties agree that the job titles/positions to be included in this collective definition are comprised of the same job titles/positions found in the class list that was previously produced by Defendants pursuant to the Court's July 19, 2019 Order. *See* Dkt. 28.

challenge the sufficiency of representation as well as to challenge Ms. Dollery's ability to act as a representative for the collective members.

The Parties stipulate that within twenty-one (21) days of the Court approving this Stipulation, Defendants shall provide to Plaintiff's counsel an updated list of the names, last known home addresses, all available telephone numbers, and all available email addresses in Defendants' possession for the Collective members as defined above. Defendants shall also provide the work location(s), as well as beginning and end dates of employment for all Collective members. Defendants shall provide such information in a computer-readable format, such as Microsoft Excel Spreadsheet. The Parties further stipulate that, given the current pandemic of COVID-19 and the preventions in place to prevent its spread, the Parties will work together to extend this proposed timetable in the event that resources necessary to collect this information are scarce or unavailable due to pressing business needs, such as providing care, resources, and support to the treatment of patients and facilities that may be impacted.

Heffler Claims Group (the "Notice Administrator") will be appointed to administer the Notice of Collective Action Lawsuit (the "Notice") and Opt-in Consent Form to all persons identified in Defendants' list. Plaintiff shall pay the costs of the Notice Administrator, subject to claiming the costs as a reimbursable litigation expense. The Notice Administrator shall provide the Notice and Opt-In Consent Form by: (1) first class mail, (2) email, and (3) electronically at the Notice Administrator's website (to be identified in the Notice) within seven (7) days of receipt of the list of Defendants' eligible current and former employees, or as soon thereafter as practicable.

Eligible persons shall be given ninety (90) days from the earliest of the date on which the Notice and Opt-In Consent Form is sent via first class mail, the date on which the Notice and Opt-In Consent Form is sent via email, or the date on which it is posted electronically, in which to

return their Opt-In Consent Form (received, postmarked, or completed via an electronic signature service shall be deemed valid) to the Notice Administrator or Plaintiff's counsel. Eligible persons who have not submitted their Opt-In Consent Form after 30 days will receive a reminder by mail and/or email (where available) from the Notice Administrator.

Plaintiff's counsel will file the Opt-In Consent Forms with the Court on an ongoing basis. Plaintiff's counsel may cure and re-file any Opt-In Consent Forms that were filed and later found to be deficient. Plaintiff's counsel may also post a copy of the Notice and Opt-In Consent Form on its firm website.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED

That this action be conditionally certified as a FLSA collective action, pursuant to 29 U.S.C. §§ 201 *et seq.*

RESPECTFULLY SUBMITTED AND DATED this 28th day of April, 2020.

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