UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DON CARR, MACK CARR,
AUTUMN MILLEROV,
THOMAS JOHNSON,
TRACEY CAMELET,
and all other persons similarly situated,
known or unknown,

Plaintiffs,

Collective Action

Case No. 2:18-cv-11313
Honorable Robert H. Cleland

vs.

LIVINGSTON COUNTY
BOARD OF COMMISSIONERS,
AND LIVINGSTON COUNTY,

Defendants.

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GASIOREK, MORGAN, GRECO, McCAULEY & KOTZIAN, P.C. David A. Kotzian (P38308) David F. Greco (P53523) Angela Mannarino (P72374) Attorneys for Plaintiff 30500 Northwestern Highway, Suite 425 Farmington Hills, MI 48334 (248) 865-0001/Fax: (248) 865-0002 dkotzian@gmgmklaw.com dgreco@gmgmklaw.com amannarino@gmgmklaw.com	**COHL, STOKER & TOSKEY, P.C.** Bonnie G. Toskey (P30601) Sarah K. Osburn (P55539) Attorneys for Defendants 601 N. Capitol Avenue Lansing, MI 48933 (517) 372-9000/Fax: (517) 372-1026 btoskey@cstmlaw.com sosburn@cstmlaw.com

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STIPULATED ORDER GRANTING PLAINTIFFS' MOTION FOR CONDITIONAL CLASS CERTIFICATION AND COURT SUPERVISED NOTICE PURSUANT TO 29 U.S.C. § 216(b)

Dockets.Justia.com

This matter having come before the Court upon the stipulation of the parties, and the Court being otherwise duly advised in the premises;

IT IS HEREBY ORDERED that:

1. The Court conditionally certifies this action as a collective action on behalf of:

> All Emergency Medical Technicians who worked for Defendants at any time between April 27, 2015 and present and who worked at any time in excess of forty (40) hours per workweek; and

2. The Court appoints Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C. as class counsel for all opt-in Plaintiffs who file the Consent to Join form;

3. The Court approves the attached proposed notice and consent forms to be sent via U.S. Mail and e-mail;

4. Defendant is to serve Plaintiffs' Counsel with a computer-readable and exportable Excel file containing the full name, last known address, last known telephone number, employee ID number, and last known e-mail address of all putative class members identified above within ten (10) days from the date of entry of this Order;

5. The Court authorizes Plaintiffs to promptly disseminate the approved notice and consent form to all putative class members pursuant to

the "opt-in" mechanism for collective actions authorized by the Fair Labor Standards Act, 29 U.S.C. § 216(b) and in any event, no later than ten (10) days after receipt of the above computer-readable and exportable Excel file from Defendants.

6. All Consents to Join signed by putative Class Members must be post-marked, electronically mailed, or hand-delivered to Plaintiffs' counsel within sixty (60) days of the date that Plaintiffs' counsel sends such approved notice and consent forms to putative class members.

7. Plaintiffs' counsel shall file with the Court all opt-in consent forms they receive within ninety (90) days of sending the court-approved notice;

8. Defendants shall refrain from communication with putative class members concerning this lawsuit or the underlying issues.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 20, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, June 20, 2018, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522

Approved for Entry:

/s/ David A. Kotzian
GASIOREK, MORGAN, GRECO, McCAULEY & KOTZIAN, P.C.
David A. Kotzian (P38308)
Attorneys for Plaintiff

/s/ Sarah K. Osburn
COHL, STOKER & TOSKEY, P.C.
Bonnie G. Toskey (P30601)
Sarah K. Osburn (P55539)
Attorneys for Defendants

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NOTICE OF RIGHT TO OPT-IN TO LAWSUIT

TO: ALL INDIVIDUALS WHO WORKED AT ANY TIME FROM APRIL 27, 2015 THROUGH THE PRESENT FOR LIVINGSTON COUNTY AS EMERGENCY MEDICAL TECHNICIANS AND WHO WORKED IN EXCESS OF FORTY HOURS IN ANY WORKWEEK.

RE: FAIR LABOR STANDARDS ACT LAWSUIT FILED AGAINST LIVINGSTON COUNTY BOARD OF COMMISSIONERS AND LIVINGSTON COUNTY ("DEFENDANTS")

1. INTRODUCTION

This Notice is to inform you about a lawsuit in which you might be able to make a claim for damages under the federal Fair Labor Standards Act ("FLSA"), to advise you of how your rights may be affected by this lawsuit, and to instruct you on the procedure for participating in this lawsuit, if you so choose.

2. DESCRIPTION OF THE LAWSUIT

On April 27, 2018, Don Carr, Mack Carr, Autumn Millerov, Thomas Johnson, and Tracey Camelet ("Plaintiffs"), on behalf of themselves and others similarly-situated, filed a lawsuit in the U.S. District Court for the Eastern District of Michigan against Defendants. The lawsuit alleges that Defendants failed to pay Emergency Medical Technicians ("EMT's") at the required rate of one and a half times their regularly hourly wage for hours worked in excess of forty (40) in a workweek as required by the FLSA, 29 U.S.C. § 207(a)(1). Plaintiffs seek recovery of unpaid overtime compensation for such work performed after April 27, 2015 through the present. Plaintiffs also seek an additional equal amount as liquidated damages, as well as attorneys' fees and costs. Defendants deny the allegations and state that they have complied with all requirements of the FLSA.

3. PERSONS ELIGIBLE TO RECEIVE THIS NOTICE

The United States District Court for the Eastern District of Michigan approved this Notice to be distributed to:

All Emergency Medical Technicians who worked for Defendants at any time between April 27, 2015 and present and who worked at any time in excess of forty (40) hours per workweek.

4. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

If you meet the description in section number three (3) above, and if you believe that Defendants failed to compensate you at the rate of one and half times your regularly hourly rate as required by the FLSA for the time you spent working more than 40 hours per week, you have the right to make an FLSA claim against Defendants in this lawsuit to recover unpaid overtime compensation, liquidated damages, costs, and attorneys' fees for Plaintiffs' counsel in this lawsuit. **It is entirely your own decision whether to join this lawsuit.**

5. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit, you will be bound by any judgment on any claim you may have under the FLSA, whether favorable or unfavorable. That means, if you win, you may be eligible to share in the monetary award, including back wages and liquidated damages in the amount of double your back wages, and you may have your attorneys' fees and costs paid for by Defendant(s); however, if you lose, no money will be awarded, you will not be able to file another lawsuit regarding the matters raised in the lawsuit, and you may be required to pay Defendants' costs of the lawsuit.

While this lawsuit is proceeding, you may be required to respond under oath to written questions, to have your deposition taken, to produce documents, and/or testify in court at a trial or hearing in the United States federal courthouse in Port Huron, Michigan.

6. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected or bound by any judgment, favorable or unfavorable, on any of the claims brought under the FLSA that are alleged in this lawsuit; in other words, if you do not file a Consent to Join form, you will not receive any back overtime wages or other relief granted under this lawsuit if Plaintiffs prevail on their FLSA claims.

If you choose not to join this lawsuit, you retain all rights, if any, that you may have under the FLSA and are free to file your own lawsuit or complaint with the U.S. Department of Labor; however, recovery for any alleged FLSA claim you may have would be obtainable by you only if you file your own lawsuit or U.S. Department of Labor complaint within the time provided by law, and you actually prevail on your claims.

7. YOUR LEGAL REPRESENTATION IF YOU JOIN

The attorneys for Plaintiffs and the proposed opt-in class are Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C. The law firm's address and telephone number are:

David A. Kotzian, David F. Greco, Angela M. Mannarino
Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C.
30500 Northwestern Highway, Suite 425
Farmington Hills, MI 48334
(248) 865-0001

Unless you retain other legal counsel, at your own expense, you will be represented in this lawsuit by Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C. (class counsel). No prepayment of legal fees or costs is required. If the case is successful, class counsel will seek to recover their costs and attorneys' fees either from Defendant or from any settlement or recovery approved by the Court.

If this collective action is later de-certified, class counsel will inform you of your options; and class counsel may ask you to enter into a separate written retainer agreement at that time.

8. HOW TO JOIN THIS LAWSUIT

If you wish to join this lawsuit, you must complete, sign and mail the enclosed **Consent to Join** form in the enclosed stamped envelope, electronically mail, or hand-deliver to:

David A. Kotzian
Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C.
30500 Northwestern Highway, Suite 425

Farmington Hills, MI 48334
david.kotzian@gmgmklaw.com

Your signed Consent to Join form must be postmarked, electronically mailed, or hand-delivered by _____, 2018 for you to be eligible to participate in this lawsuit.

If you wish to join this lawsuit, return the signed Consent to Join form as soon as possible, but no later than _____, 2018, to preserve any legal right you may have to participate in this lawsuit. Until the Consent to Join form is filed with the Court, the statute of limitations ordinarily continues to run, and you will not be entitled to receive compensation for the days during which you delay sending in your Consent to Join form.

If you file a Consent to Join form, your continued right to participate in this lawsuit may depend upon a later decision by the Court that you and the Plaintiffs are similarly situated. If the Court finds that you and the Plaintiffs are not similarly situated, you may re-file your own FLSA lawsuit within the time provided by law.

9. DEADLINE

Your completed Consent to Join form must be postmarked, electronically mailed or hand-delivered by _____, 2018 in order to be eligible to participate in the lawsuit. You should ensure that it is post-marked, electronically mailed to, or hand-delivered to Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C. by that date. If you have already submitted a Consent to Join form, you do not need to submit another one at this time.

10. NO OPINION EXPRESSED AS TO THE MERITS OF THIS LAWSUIT

This Notice is for the sole purpose of providing current and former employees of Defendants with information concerning their potential right to join this lawsuit.

Although this Notice and its contents have been authorized by the Court, the **Court takes no position regarding the merits of**

Plaintiffs' claims or the defenses of Defendants and there is no assurance that the Court will grant any relief to the Plaintiffs.

11. NO RETALIATION PERMITTED

The FLSA prohibits employers, such as Defendants from discriminating or retaliating against or taking adverse actions against any person for filing a lawsuit, claim or complaint for compensation, assisting or testifying in a lawsuit under the FLSA, or otherwise participating in a proceeding or exercising their rights under the FLSA.

12. FURTHER INFORMATION

For further information about this lawsuit, you may contact Plaintiffs' counsel by mail at the address indicated above in paragraph 7, by telephone at (248) 865-0001, or by email at dkotzian@gmgmklaw.com.

PLEASE DO NOT ATTEMPT TO CONTACT THE COURT REGARDING THIS LAWSUIT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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CONSENT TO SUE

I, _____, hereby consent to be a Plaintiff in the Fair Labor Standards Act case captioned above. I hereby consent to the bringing of any claims I may have under the Fair Labor Standards Act and applicable state wage and hour law against the Defendants. I further consent to bringing these claims on a collective and/or class basis with other current/former employees of Defendants. I authorize Gasiorek, Morgan, Greco, McCauley & Kotzian, P.C., its successor and assigns, to represent me in this case.

Name:

Address:

Signature: _____

Dated: _____