NOTICE OF COLLECTIVE ACTION LAWSUIT

Lenore Smith, et al v. AmeriPlan Corporation, 4:10-cv-00075-ALM United States District Court, Eastern District of Texas

TO: Provider Relations Representatives of AmeriPlan Corporation who worked during any workweek since December 7, 2006.

RE: AmeriPlan Corporation - Fair Labor Standards Act Litigation

PLEASE READ THIS NOTICE CAREFULLY

I. INTRODUCTION

The purpose of this Notice is to inform you of the existence of a collective action lawsuit and your option to elect to participate in the lawsuit.

You should be aware that this collective action lawsuit is only in the early stages. The right to recovery is not established and is not certain. Your decision to participate in this lawsuit does not guarantee that you will receive money. AmeriPlan Corporation denies that it has violated the law and denies that it owes any unpaid wages to any Provider Relations Representatives.

II. DESCRIPTION OF THE LAWSUIT

In 2009, Lenore Smith ("the Plaintiff") started this lawsuit against Defendant AmeriPlan Corporation ("the Company") on behalf of herself and other individuals who worked as a "Provider Relations Representative". The lawsuit asserts that Plaintiff and other Provider Relations Representatives have been misclassified as exempt from the federal overtime laws and are entitled to receive overtime premium pay for all hours worked over forty in a seven-day workweek. The Company denies liability and may assert, in part, that the Plaintiff and other Provider Relations Representatives were not covered by federal overtime laws or were properly classified as exempt from federal overtime laws as "independent contractors."

The outcome of this lawsuit may turn on the Court's determination of whether Plaintiff and other Provider Relations Representatives are entitled to overtime pay based upon the Court's assessment of various factors including but not limited to, the Provider Relations Representatives' duties and responsibilities and the economic reality of whether the Provider Relations Representatives are economically dependent upon the Company or instead in business for themselves. The Company may argue, in part, that such Provider Relations Representatives are exempt from the overtime laws as independent contractors. The Plaintiff will argue that Provider Relations Representatives were employees, rather than independent contractors, and entitled to overtime pay. As already stated, the Court has not yet decided who will win the lawsuit.

The lawsuit seeks to recover only the additional compensation for hours worked over 40, if any, as well as interest, statutory liquidated damages, statutory penalties, reasonable attorneys' fees, and litigation costs.

III. NO RETALIATION PERMITTED

If you join this lawsuit, federal law prohibits the Company from retaliating against you as a result of your participation. Your participation in this lawsuit does not limit, in any way, the Company from exercising its legitimate rights under any agreement it may have with you, separate from the claims arising from this lawsuit, including but not limited to the IBO Agreement and Sales Director Contract,.

IV. <u>DEFINITION OF THE CLASS</u>

Plaintiff seeks to sue on behalf of herself as well as other present and former Provider Relations Representatives of the Company who worked during any workweek since December 7, 2006.

If you received a copy of this notice in an envelope specifically addressed to you, the Company's records indicate that you may fit the above definition.

V. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

Participation in this lawsuit is voluntary. If you fit the definition in Section IV above, you may join this lawsuit by mailing your completed and signed "Opt-In Consent Form" in the self-addressed stamped envelope provided or by otherwise sending the "Opt-In Consent Form" to Plaintiff's counsel at the following address:

Barkan Neff Handelman Meizlish, LLP

Attn: AmeriPlan Provider Relations Representative Lawsuit 360 S. Grant Avenue P.O. Box 1989 Columbus, OH 43216-1989

Ph: (800) 274-5297

Email: bderose@bnhmlaw.com

This form must be returned postmarked by [insert date 45 days after mailing date]. If you fail to return the "Opt-In Consent Form" by the [insert date 45 days after mailing date] deadline, you will not be able to participate in the lawsuit, and you will not be eligible to participate in any recovery that may be obtained by the lawsuit.

If you file an "Opt-In Consent Form," your continued right to participate in the lawsuit may depend upon later decisions by the District Court concerning the appropriateness of a collective action treatment, whether you are similarly situated to other participants and other matters.

If you have any questions regarding your rights or questions about this lawsuit **DO NOT CALL THE COURT**. Instead, call 800-274-5297 or email bderose@bnhmlaw.com.

VI. EFFECT OF JOINING THIS SUIT

If you join the lawsuit, and the Court finds in favor of the Plaintiff and other Provider Relations Representatives, you may be entitled to a money recovery. However, if you join the lawsuit, and the Court rules in favor of the Company, you will be entitled to no relief.

The Plaintiff's attorneys are being paid on a contingency fee basis, which means that, if there is no recovery, the attorneys will receive nothing. You will not be required to pay any of Plaintiff's legal fees. If there is a recovery, the Plaintiff's attorneys will receive a percentage of any recovery obtained or may seek to obtain a Court Order under which they may receive a fee through a separate payment by the Company.

By joining this lawsuit, you are designating The Winebrake Law Firm, LLC (Dresher, PA) and Barkan Neff Handelman Meizlish, LLP (Columbus, OH) to represent your interests. In addition, by joining this lawsuit you will be bound by the judgment of the Court on all issues in this case, including the reasonableness of any settlement.

VII. NO LEGAL EFFECT IN NOT JOINING THIS SUIT

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable.

VIII. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this lawsuit, your interests will be represented by the following attorneys:

Peter D. Winebrake, Esq.

R. Andrew Santillo, Esq.

The Winebrake Law Firm, LLC

Robert E. DeRose, Esq.

Katherine A Stone, Esq.

Barkan Neff Handelman Meizlish, LLP

Twining Office Center, Suite 211 360 South Grant Street

715 Twining Road P.O. Box 1989 Dresher, PA 19025 Columbus, OH 43215

Ph: (215) 884-2491 Ph: (800) 274-5297

The Company is represented in this action by the following attorneys:

Byron K. Henry, Esq. Mark L. Hill, Esq. Cowles & Thompson, PC 901 Main Street, Suite 3900 Dallas, TX 75202 (214) 672-2000

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES MAGISTRATE JUDGE AMOS L. MAZZANT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS. THE COURT HAS TAKEN NO POSITION REGARDING THE MERITS OF THIS LAWSUIT.