

NOTICE OF FLSA (OVERTIME) COLLECTIVE LAWSUIT

All non-exempt (hourly), full-time employees and former employees of Southern West Virginia Community and Technical College (“SWVCTC”) employed at any time between **May 31, 2014-May 31, 2017**.

DESCRIPTION OF THE LAWSUIT

In May 2018, a former full-time, non-exempt (hourly) employee of SWVCTC filed a lawsuit alleging she was required by SWVCTC to work over forty (40) hours per week but was not paid for those overtime hours as required by law. Melissa Deskins asked the court to certify a class action for unpaid overtime wages, also known as a “FLSA Collective Action,” to allow distribution of a notice of the lawsuit and an opportunity to participate to any other SWVCTC employees and former employees who also worked overtime hours they were not paid for as required by law.

SWVCTC denies the allegations of the lawsuit and says it complied with the law at all times. According to SWVCTC, each employee is required to enter the hours they work into the State payroll system and to submit accurate timecards. SWVCTC says that each employee receives overtime compensation for every hour worked in any given week in excess of forty (40) hours based upon the number of hours submitted each employee’s timesheet. SWVCTC denies any member of its management ever encouraged any employees not to submit or not to request overtime pay.

On August 22, 2019, the United States District Court for the Southern District of West Virginia, issued an order conditionally certifying this case as a FLSA Collective Action for “**all non-exempt, full-time employees who have worked for (SWVCTC) at any time during the three years preceding May 31, 2017.**” In order to recover, you must have worked **more than forty hours** per week during **at least one week** within the **three-year period** before May 31, 2017, and not been paid for the hours worked in excess of forty (40) hours per week.

YOUR RIGHTS TO PARTICIPATE

If you worked for SWVCTC as a full-time hourly employee at any time between **May 31, 2014-May 31, 2017**, worked more than forty (40) hours in any given week and were not paid for the hours you worked in excess of forty (40) hours per week, you may join this lawsuit. Joining a FLSA Collective Action is called “opting-in” and requires you to sign and to return the accompanying Consent (you can also download a copy of the Consent at marktoor.com). You may elect to be represented by Plaintiffs’ counsel or choose your own counsel; however, if you choose your own counsel, you will be responsible for paying them.

An employer is legally prohibited from retaliating or discriminating against you in any way for your decision to participate in this lawsuit. You do not necessarily need documents to collect for unpaid overtime hours.

HOW TO PARTICIPATE

You can join the lawsuit by signing and returning the Consent form, which will then be filed with the court. **You must submit your consent within ninety (90) days of your receipt of this Notice, or no later than March 1, 2020.** If you choose to join in the lawsuit, you will be bound by any judgment entered in this case, whether favorable or unfavorable. In order to receive a recovery, you may be required to provide certain information (i.e., information to help determine the number of hours you may have worked without proper overtime compensation).

The law firm of Mark A. Toor, Esq. (Plaintiffs' counsel) represents the Plaintiffs in this lawsuit. Plaintiffs' counsel is handling this matter on a contingency basis, meaning that the attorneys' fees and costs will be determined by the court upon a successful outcome and that *Plaintiffs will not be responsible for fees and/or costs or any other money.* The agreement further provides that at the conclusion of the case, Plaintiffs' counsel will make an application to the court for the recovery of fees and costs; that the court has discretion over the amount of fees to award, and; that the fees may be calculated after the deduction of costs and expenses.

By joining this lawsuit, you designate the named Plaintiff, Melissa Deskins, as your agent to make decisions on your behalf concerning the litigation, and all other matters pertaining to the lawsuit. These decisions and agreements made and entered into by the named plaintiffs will be binding on you if you join this lawsuit.

LEGAL EFFECT OF FILING OR NOT FILING THE CONSENT FORM

If you do not file a consent form and if there is a recovery, you will not receive any money or other relief for FLSA claims in this lawsuit, and you will not be bound by any judgment or settlement in this case, whether favorable or unfavorable. If you choose not to join this lawsuit, you are free to file your own lawsuit with your own attorney or to pursue your claims through the United States Department of Labor. ***Be aware, however, your claim may lose value with the passage of time.***

YOU MUST SUBMIT YOUR CONSENT FORM BY NO LATER THAN MARCH 1, 2020.

To make an FLSA claim in the lawsuit, please fill out the form, sign it, and fax, mail, PDF or send it overnight to:

Mark A. Toor, Esq.
10 Hale Street, Suite 202
Charleston, West Virginia 25301
888-419-1470 FAX
overtime@marktoor.com

Although the court has approved the mailing of this notice, the court expresses no opinion on the merits of the lawsuit. Further, receipt of this notice does not indicate you have a claim or that you are necessarily entitled to a recovery.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE