

**NOTICE TO CLASS MEMBERS REGARDING HEARING ON PROPOSED
SETTLEMENT**

Lynnett Myers, Carol Butler, and Arva Lowther, individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

Marietta Area Healthcare, Inc. d/b/a Memorial Health System, Marietta Memorial Hospital,
Selby General Hospital, J. Scott Cantley, and Eric Young,

Defendants.

Southern District of Ohio, Case No. 2:15-cv-2956

ELIGIBLE CLAIMANTS ARE HEREBY NOTIFIED AS FOLLOWS:

A proposed settlement (the “Settlement”) has been reached in the above-referenced class and collective action lawsuit currently pending in the United States District Court for the Southern District of Ohio captioned *Myers, et al. v. Marietta Memorial Hospital*, No. 2:11-CV-982 (“the action”). Because your rights may be affected by this Settlement, it is extremely important that you read this Notice carefully.

As explained in more detail below, if you have already filed a notice of consent to participate in this case, you **do not** need to file a claim to receive a portion of the Settlement. However, if you have not previously filed a notice of consent to participate in the case, you **must** file a claim so that it is received by the Claims Administrator with a postmark date on or before **August 5, 2022**. If you fail to file and properly submit a timely claim, you will receive nothing under the Settlement and will be bound by the release of claims described in this notice.

A. PURPOSE OF THIS NOTICE

The Court has certified this case as both a class action and a collective action. You are a member of the Collective Action if you have previously filed a notice of consent to participate in the case.

You are a member of the class action if the following definition applies to you:

All of Defendants’ current and former hourly employees who were responsible for direct patient care and were subject to Defendants’

automatic meal deduction policy at any time from October 29, 2012 through December 31, 2018.

You should have received a Postcard version of this notice. That Postcard will say “Collective Action Notice” if you have previously filed a notice of consent to participate or “Class Action Notice” if you did not previously file a notice of consent to participate.

B. DESCRIPTION OF THE LITIGATION

On October 29, 2015, Plaintiffs Lynnett Myers, Carol Butler, and Arva Lowther commenced an action against Defendants Marietta Area Healthcare, Inc. d/b/a Memorial Health System, Marietta Memorial Hospital, Selby General Hospital, J. Scott Cantley, and Eric Young seeking relief under the Fair Labor Standards Act (“FLSA”).

On August 17, 2016, the Court conditionally certified an FLSA collective action. Notice of the action was mailed to all members of the collective in September 2016. The Court then certified a class action on September 11, 2017. Notice was mailed to all members of the class in November 2018. The parties subsequently reached this Settlement.

In the Litigation, Plaintiffs allege that Defendants’ practices caused them and others similarly situated to work without pay in violation of state and federal wage and hour laws. Plaintiffs further allege that this was the result of Defendants’ practices related to its policy of automatically deducting a 30 minute lunch break period from their shifts, regardless of whether they actually received an uninterrupted, 30 minute break. Defendants deny Plaintiffs’ allegations and maintains that they properly compensated the Class Members and complied with all applicable state and federal laws.

The parties in this Litigation disagree as to the probable outcome of the Litigation with respect to liability and damages if it were not settled. While the Class Representatives were prepared to proceed with litigating the case described above, they recognize that litigation is a risky proposition and that they may not have prevailed on any or all of their claims. Likewise, while Defendant was confident that it had strong legal arguments and factual arguments that would resolve the Class Representatives’ claims in Defendant’s favor, it recognizes the risks, distractions, and costs involved with litigation.

This Settlement is the result of good-faith, arm’s-length negotiations between the Class Representatives and Defendant, through their respective attorneys. Both sides agree that in light of the risks and expense associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Class Members. Please be advised that the Court has not entered judgment on the merits of the Class Representatives’ claims or Defendant’s defenses.

The attorneys for the Class and Collective Action in the Litigation (“Class Counsel”) are:

MEYER WILSON CO., LPA
Matthew R. Wilson
Michael J. Boyle
John Camillus
305 W. Nationwide Blvd.
Columbus, Ohio 43215
Telephone: (614) 224-6000
Facsimile: (614) 919-8230

CHAPIN LEGAL GROUP, LLC
Lance Chapin
580 S. High St., Ste. 330
Columbus, OH 43215
Telephone: 614.221.9100
Facsimile: 614.221.9272

BABIN LAW, LLC
Steven C. Babin, Jr. (0093584)
Email: steven.babin@babinlaws.com
22 E Gay St., Suite 200
Columbus, OH 43215
Telephone: (614) 265-1541

The attorneys for Defendants are:

ICE MILLER LLP
James E. Davidson
Catherine L. Strauss
Abigail J. Barr
Lydia F. Reback
250 W. Street, Suite 700
Columbus, OH, 43215
Telephone: (614) 462-2700
Facsimile: (614) 462-5135

On **March 16, 2022**, the Court granted preliminary approval of the proposed Settlement. The Court will decide whether to give final approval to the proposed Settlement at a hearing scheduled for **August 23, 2022, at 10:00 a.m.** (“Final Approval Hearing”).

C. SUMMARY OF TERMS OF THE PROPOSED SETTLEMENT

Subject to Court approval, the terms of the Settlement are as follows:

1. Defendant will pay up to \$2,500,000.00 (the “Settlement Amount”) to pay: (a) the timely claims of Class Members; (b) Class Counsel’s fees and litigation costs; (c) enhancement awards to the Class Representatives; (d) employee payroll taxes; and (e) \$25,000 towards the costs of administering the Settlement.

2. After deduction from the Settlement Amount for attorneys’ fees, litigation costs, enhanced awards to the Class Representatives, and \$25,000 in costs of administering the Settlement, from the remaining amount (the “Net Settlement Amount”), Defendants will make a

settlement payment to each Class Member who properly submits a timely Consent to Join Settlement Form (enclosed with this Notice as Form A), and to each person who previously opted-in to the Collective Action.

3. The parties have agreed to an approach that they believe fairly allocates the Settlement Amount between and among the Class Members. On **March 16, 2022**, the Court preliminarily approved the recommended allocation formula.

4. The allocation is based on each Class Member's shifts worked during the class period in which they were subject to the automatic lunch deduction policy and did not cancel it. For each applicable shift, class members who timely file a claim will receive \$1.19.

5. Class Counsel will ask the Court to award attorneys' fees in an amount not to exceed 33 1/3% of the Settlement Amount as well as reasonable litigation expenses and costs, which will be paid from the Settlement Amount. In addition, Class Counsel will ask the Court to authorize incentive awards of \$15,000 to each of the four class representatives.

6. Every Class Member, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys, shall fully release and discharge each Defendant and Releasees from any and all state wage and hour claims that were or, could have been brought based on the specific factual allegations contained in the Litigation that arise from his or her employment as a Direct Patient Care Provider, that occurred or are alleged to have occurred at any time through the date this Agreement is executed, including without limitation claims for minimum wage payments, overtime compensation, penalties, liquidated damages, interest, attorney's fees or expenses, and further including claims under the Ohio Minimum Fair Wage Standards Act, O.R.C. §§ 4111, et seq., the Ohio Prompt Pay Act, O.R.C. § 4113.15, or any other state statute applicable to where Releasees owned, operated or managed any location, whether known or unknown, in law or in equity, that accrued or accrue prior to the date this Agreement is executed;

7. In addition, every Class Member, on his or her behalf, and on behalf of his or her respective current, former and future heirs, assigns, spouses, executors, administrators, agents, and attorneys, shall fully release and discharge each Defendant and their present and former affiliates, divisions, subsidiaries, parents, predecessors, present and former officers, partners, directors, employees, agents, attorneys, shareholders and/or successors, assigns, trustees, heirs, administrators, executors, representatives and/or principals thereof, ("Releasees"), of and from any and all state or federal wage and hour claims that were or, could have been brought based on the specific factual allegations contained in the Litigation that arise from his or her employment as a Direct Patient Care Provider, that occurred or are alleged to have occurred at any time through the date this Agreement is executed, including without limitation claims for minimum wage payments, overtime compensation, penalties, liquidated damages, interest, attorney's fees or expenses, and further including claims under and the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., the Ohio Minimum Fair Wage Standards Act, O.R.C. §§ 4111, et seq., the Ohio Prompt Pay Act, O.R.C. § 4113.15, or any other state statute applicable to where Releasees owned, operated or managed any locations, whether known or unknown, in law or in equity, that accrued or accrue prior to the date this Agreement is executed;

D. TO RECEIVE A SETTLEMENT PAYMENT

Collective Action

If you are a member of the Collective Action, unless you object to the settlement as described below, you will receive a check in the amount equal to the number of shifts you worked for Defendants in which you were subject to the automatic lunch deduction policy and did not cancel your lunch deduction, times \$1.19. This calculation is based on Defendants' employment records showing the number of shifts you worked and the number of times you cancelled your lunch deduction. **You do not have to take any additional action.**

Class Action

If you are a member of the Class Action, in order to receive a payment under the Settlement, you must complete the form that is available on this website (www.memorialhealthsystemssettlement.com). **Your Claim Form must be received by the Claims Administrator on or before August 5, 2022. Late or incomplete Claim Forms will not be honored.** To be effective, the Consent to Join Settlement Form must be completed in full and signed under penalty of perjury.

E. TO REQUEST EXCLUSION FROM THE SETTLEMENT

If you are a member of the Class Action, you may request exclusion from the Class by "opting out." Class Members who choose to opt-out of the class must mail a written, signed statement to the Claims Administrator stating that he or she is opting out of the Settlement ("Opt-Out Statement"). The Opt-Out Statement must contain your to be valid. It must also contain the words "I elect to exclude myself from the hospital wage and hour settlement" or other similar words or language that leads a reasonable person to conclude that you would like to opt-out. To be effective, such Opt-Out Statements may be sent via First Class United States mail and postmarked within sixty (60) days after the mailing of the Class Notices or may also be submitted by facsimile, electronic mail.

If you properly submit a timely Election to Opt Out of Settlement and Class Action, you will not be eligible to receive any of the benefits under the Settlement. You will, however, retain whatever legal rights you may have against Defendant with regard to the Released State Law Claims and Released Federal Law Claims.

F. TO OBJECT TO THE SETTLEMENT

If you do not request exclusion from the settlement but believe the proposed Settlement is unfair or inadequate in any respect, you may object to the Settlement, by filing a written objection with the Court and mailing a copy of your written objection to Class Counsel, Counsel for Defendant, and the Claims Administrator at the following addresses:

Class Counsel

MEYER WILSON CO., LPA
Matthew R. Wilson
Michael J. Boyle
John Camillus
305 W. Nationwide Blvd.
Columbus, Ohio 43215
Telephone: (614) 224-6000
Facsimile: (614) 919-8230

Defendant's Counsel

ICE MILLER LLP
James E. Davidson
Catherine L. Strauss
Abigail J. Barr
Lydia F. Reback
250 W. Street, Suite 700
Columbus, OH, 43215
Telephone: (614) 462-2700
Facsimile: (614) 462-5135

Claims Administrator

CPT, Inc.
Myers v. Memorial Health System Settlement
50 Corporate Park
Irvine, CA 92606

All objections must be signed and set forth your address, telephone number, and the name of the Litigation. Your objection should clearly explain why you object to the proposed Settlement and should state whether you or someone on your behalf intends to appear at the Final Approval Hearing. All objections must be filed with the Court, and received by Class Counsel and Counsel for Defendants, by no later than **July 6, 2022**. If you submit a timely objection, you may appear, at your own expense, at the Final Approval Hearing.

Any Class Member who does not object in the manner described above shall be deemed to have waived any objections, and shall forever be foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees, litigation costs, the enhanced awards to the Class Representatives, the claims process, and any and all other aspects of the Settlement.

Regardless of whether you file an objection, if you are a member of the Class Action, in order to receive any proceeds under the Settlement you must properly submit a timely Consent to Join Settlement Form.

Likewise, regardless of whether you attempt to file an objection, you will be deemed to have released all claims as set forth above unless you request exclusion from the Settlement.

G. IF YOU DO NOTHING

If you are a member of the Class Action and do nothing in response to this Notice, you will not receive any proceeds under the Settlement, but you will be deemed to have released all claims against Defendants as described above.

H. TAXES

For tax reporting purposes, any payments made pursuant to the Settlement shall be allocated as follows: (a) fifty percent (50%) shall be deemed payment in settlement of claims for unpaid wages; and (b) fifty percent (50%) shall be deemed payment in settlement of claims for penalties, liquidated damages, interest, and all other non-wage recovery. With respect to the portion of payment allocated to the settlement of claims for unpaid wages, such portion will be subject to required withholdings and deductions by the Claims Administrator and will be reported as wage income on a Form W-2 to be issued by the Claims Administrator, and such other state or local tax reporting forms as may be required by law. With respect to the portion of payment allocated to the settlement of claims for non-wage recovery, such amounts will not be subject to withholding or deduction and will be reported as non-wage income on a Form 1099 or equivalent to be issued by the Claims Administrator, and such other state or local tax reporting forms as may be required by law.

If you have any questions regarding the tax treatment of any payments pursuant to the Settlement, you should consult your own tax advisor. Neither Class Counsel, Defendants' Counsel, nor the Court can provide tax advice.

I. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Court will hold a Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the administrative costs, and the enhancement awards to the Class Representatives on **August 23, 2022, at 10:00 a.m.**, in Courtroom 323 of the United States District Court for the Southern District of Ohio, located at the Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215. The Final Approval Hearing may be continued without further notice to Class Members.

J. ADDITIONAL INFORMATION

This Notice only summarizes the Litigation, the Settlement, and other related matters. For more information, you may review the Court's files, including the detailed Stipulation and Settlement Agreement, which will be on file with the Clerk of the Court. The pleadings and other records in this Litigation including the Stipulation and Settlement Agreement, may be examined at the Records Office of the Clerk of the United States District Court, located at the Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

Any questions regarding this Notice or the enclosed forms should be directed to the Claims Administrator at the address and telephone number listed in Paragraph D, above. Additional information is available on the settlement website at **www.memorialhealthsystemssettlement.com**. If your address changes, or is different from the one on the envelope enclosing this Notice, please promptly notify the Claims Administrator as instructed in Paragraph K below.

K. IF YOU CHANGE YOUR NAME OR ADDRESS

If, for future reference and mailings from the Court or Claims Administrator, you wish to change the name or address listed on the envelope in which the Class Notice was first mailed to you, then you must notify the claims administrator in writing at:

CPT, Inc.
Myers v. Memorial Health System Settlement
50 Corporate Park
Irvine, CA 92606

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.