

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

Case No. CV 16-4132 DSF (KSx)

Date 3/9/18

Title Verna Maxwell Clarke v. AMN Services, LLC

Present: The
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order re Class Notice

The Court has largely adopted Plaintiffs' proposed notices. The extensive information about possible tax issues included in Defendant's proposal was not appropriate. It was too argumentative and was uncalled for in light of the Court's analysis as stated in its Order Granting Plaintiffs' Motion for Class Certification. However, given the tax issues that surround the case, the Court has added a very brief suggestion that class members may wish to consult a tax professional regarding any potential tax consequences of the lawsuit. The proposed opt-in and opt-out forms are acceptable as presented with the exception of a typographical error in the California exclusion form.¹ The Court has included redline comparisons between the Court's approved notices and the notices proposed by Plaintiffs.

If either party has objections to these documents, the parties should meet and confer in an attempt to resolve them. Any objections must be filed no later than March 19. If no objections are filed by that date, Plaintiffs may proceed to send the notices.

IT IS SO ORDERED.

¹ The last word of the second paragraph should be "run."

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VERNA MAXWELL CLARKE and LAURA WITTMANN, individuals on behalf of themselves and others similarly situated,

Plaintiff,

vs.

AMN SERVICES, LLC,

Defendant.

CASE NO. 2:16-cv-04132-DSF-KS

NOTICE OF CERTIFICATION OF CALIFORNIA-WIDE CLASS ACTION AND OF RIGHT TO JOIN NATIONWIDE OVERTIME LAWSUIT

YOU ARE NOT BEING SUED. THIS IS NOT AN ADVERTISEMENT. A COURT ORDERED THIS NOTICE. YOUR LEGAL RIGHTS MAY BE AFFECTED. PLEASE READ THIS NOTICE CAREFULLY.

TO: ALL CURRENT AND FORMER HOURLY EMPLOYEES OF AMN SERVICES, LLC AND ANY OF ITS BRANDS, INCLUDING AMERICAN MOBILE HEALTHCARE, NURSESRX, OWNWARD HEALTHCARE, NURSECHOICE, AND MEDICAL EXPRESS (COLLECTIVELY “AMN”) WHO WORKED IN CALIFORNIA SINCE SEPTEMBER 11, 2013.

WHAT IS THIS NOTICE ABOUT?

You are receiving this Notice because you may be part of a California-wide class action and a nationwide collective action that was recently certified by a federal court in a lawsuit entitled *Clarke, et al. v. AMN Services, LLC*, No. 2:16-cv-04132-DSF-KS (the “Lawsuit”). The Lawsuit is pending in the U.S. District Court for the Central District of California. The purpose of this Notice is to inform you of the Lawsuit and what you must do if you wish to be included in, or excluded from, the Lawsuit. If you are a member of the class, your legal rights could be affected by the Lawsuit. You may also wish to consult a tax professional about any potential tax implications of the Lawsuit.

WHAT IS A CLASS ACTION AND/OR COLLECTIVE ACTION LAWSUIT, AND WHO IS INVOLVED?

In a *class* action lawsuit, one or more people called “class representatives” sue on behalf of other people who might have similar claims. These people together are a “class” or “class members.” The employees who sued are called the Plaintiffs. The company they sue is called the Defendant. One court resolves the issues for everyone in the class—except for those who **choose to exclude** themselves from the class.

A *collective* action lawsuit is similar to a class action. In a collective action, one or more people referred to as “collective representatives” sue on behalf of other people who might be similarly situated. These people together are a “collective” or “collective members.” Unlike a class action, however, in a collective action one court resolves the issues only for those individuals who **choose to include** themselves in the collective.

Verna Maxwell Clarke and Laura Wittman (together “Plaintiffs”) are the class and collective action representatives in this Lawsuit. AMN Services, LLC is the defendant.

WHAT IS THE LAWSUIT ABOUT?

First, the Lawsuit alleges that AMN underpaid its employees overtime, in violation of both California state law and federal law, by excluding the value of per diem benefits from the calculation of overtime pay rates. These per diem benefits include allowances for meal, incidental, and housing expenses, as well the provision of actual housing. The Lawsuit alleges that AMN was required to include the value of these benefits in calculating overtime rates of pay. The Lawsuit seeks to recover unpaid overtime, liquidated damages, and penalties under both California and federal law in connection with the overtime claims.

Second, the Lawsuit alleges that, in violation of California law, AMN provided its employees with paystubs that were inaccurate with respect to hours worked and rates of pay. The Lawsuit seeks to recover the damages and penalties allegedly owing under state law in connection with the wage statement claim.

AMN disputes all claims asserted in the Lawsuit and denies any wrongdoing or liability. The Court has not made any rulings on the merits of any claims or defenses asserted in the Lawsuit.

AM I A MEMBER OF ANY CERTIFIED CLASS OR COLLECTIVE?

With respect to the claims for violation of California state law, the Court has certified the following two California-wide classes:

- ***California Overtime Class:*** All non-exempt hourly employees employed by AMN in California from September 11, 2013 through October 12, 2017 who worked pursuant to a Professional Services Agreement that provided for per diem adjustments based on the number of hours and/or shifts missed and had the value of per diem benefits excluded from their regular rate for purposes of calculating overtime.
- ***California Wage Statement Class:*** All non-exempt hourly employees employed by AMN in California who worked pursuant to a Professional Services Agreement and worked overtime during one or more pay periods from May 7, 2015 through October 12, 2017.

With respect to the claim for unpaid overtime in violation of federal law, the Court has conditionally certified the following nationwide “collective action” pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. (“FLSA”):

- ***Nationwide FLSA Collective Action:*** All non-exempt hourly employees employed by AMN in California at any time since September 13, 2013 or outside California at any time since December 15, 2013 whose employment was governed by a Professional Services Agreement that provided for per diem adjustments based on the number of hours and/or shifts missed and had the value of per diem benefits excluded from their regular rate for purposes of calculating overtime.

You received this Notice because you have been identified through AMN’s records as someone who may fall within one or more of the groups of employees described above.

WHAT ARE MY OPTIONS IF I AM A MEMBER OF THE CALIFORNIA-WIDE CLASSES?

1. You can do nothing and, as a result, join the California-wide classes, or
2. Request to be excluded from this portion of the Lawsuit. This is referred to as “opting out.”

HOW DO I JOIN THE CALIFORNIA-WIDE CLASSES? (NO ACTION REQUIRED)

If you fall within the definitions of the “California Overtime Class” and/or the “California Wage Statement Class” set forth above, you will automatically become a class member unless you elect to exclude yourself from the California-wide classes by opting out. ***If you wish to remain a member of the California-wide classes, you do not need to do anything.*** If you so desire, you may enter an appearance through an attorney but you are not required to do so.

If you remain a member of the California-wide classes, you will be bound by any judgment entered in favor of or against the California-wide classes in the Lawsuit. If the Plaintiffs obtain a judgment or settlement on behalf of the California-wide classes, you will have the right to participate in it on the terms the Court approves. You will also be bound by any unfavorable judgment that may be rendered in favor of AMN. You will give up the right to separately sue defendant for legal claims that are the same or related to those alleged by the California-wide classes in the Lawsuit. Further, you will designate the class representatives (Plaintiffs and their attorneys) as your agents to make binding decisions on your behalf concerning the litigation.

HOW CAN I EXCLUDE MYSELF FROM THE CALIFORNIA-WIDE CLASSES? (ACTION REQUIRED)

If you do ***not*** wish to remain a member of the California-wide classes, ***you must opt out*** by mailing to the Class Action Administrator a completed “California Class Exclusion Form” (enclosed herewith) **postmarked no later than [90 days after mailing]**.

If you timely mail the California Class Exclusion Form to the Class Action Administrator, you will no longer be a member of the California-wide classes. You will not be eligible to receive money from any settlement or judgment in the event Plaintiffs prevail on any of the class claims and you will not be bound by any unfavorable judgment entered against the California-wide classes. You will retain the right to pursue your own claims against AMN, but the statute of limitations period on your claims will continue to run.

WHAT ARE MY OPTIONS IF I AM A POTENTIAL MEMBER OF THE NATIONWIDE FLSA COLLECTIVE ACTION?

1. You can do nothing and be excluded from the FLSA portion of the Lawsuit, or
2. Request to be included in the FLSA claim. This is referred to as “opting in.”

HOW DO I JOIN THE NATIONWIDE FLSA COLLECTIVE ACTION? (ACTION REQUIRED)

Unlike the California-wide classes, you will *not* automatically be joined in the nationwide FLSA collective action. ***Action is required by you to join the nationwide FLSA collective action.*** If you wish to join the nationwide FLSA collective action and assert a claim for unpaid overtime under federal law, you must opt-in by completing and returning to the Class Action Administrator the enclosed “Consent to Join Nationwide FLSA Collective Action” **postmarked no later than [90 days after mailing].**

If you choose to complete and return the “Consent to Join Nationwide FLSA Collective Action,” you will be bound by any favorable or unfavorable judgment entered with respect to the FLSA claim. If the Plaintiffs obtain a judgment or settlement with respect to the FLSA claim, you will have the right to participate in it upon the terms that the Court approves. You will also be bound by any unfavorable judgment that may be rendered in favor of the defendant with respect to the FLSA claim. You will give up the right to separately sue AMN for FLSA claims that are the same as or related to those alleged in the nationwide FLSA collective action. Further, you will designate the collective action representatives (Plaintiffs and their attorneys) as your agents to make binding decisions on your behalf concerning the litigation.

HOW DO I EXCLUDE MYSELF FROM THE NATIONWIDE FLSA COLLECTIVE ACTION? (NO ACTION REQUIRED)

If you do *not* wish to join the nationwide FLSA collective action, you should *not* return the “Consent to Join Nationwide FLSA Collective Action.”

If you do not opt-in to the nationwide FLSA class action, you will not be affected by, and cannot participate in, the judgment rendered (whether favorable or unfavorable) or settlement, if any, reached in this case. Further, you will be free to file your own lawsuit at your own expense in any federal district court where such a lawsuit may be properly brought.

CAN I BE PUNISHED FOR JOINING THE LAWSUIT?

No. California and federal law prohibits employers from discriminating or retaliating against you for joining the Lawsuit. Whichever option you choose, AMN cannot discriminate or retaliate against you based on your decision.

WHAT ATTORNEYS REPRESENT THE CLASS AND COLLECTIVE?

The law firm representing the California-wide classes and nationwide FLSA collective is Hayes Pawlenko LLP, and the attorneys at that firm handling the case can be reached as follows:

Matthew B. Hayes (mhayes@helpcounsel.com)
Kye D. Pawlenko (kpawlenko@helpcounsel.com)
Hayes Pawlenko LLP
595 E. Colorado Blvd., Suite 303
Pasadena, CA 91101
Tel.: 626.808.4357

WHAT FEES AND COSTS ARE INVOLVED IN THE LAWSUIT?

As a class or collective member, you will not be responsible for paying any out-of-pocket attorneys' fees or litigation expenses. Counsel for the class and collective has agreed to represent members on a contingency fee basis, which means that all attorneys' fees and expenses are payable only out of money recovered through any ultimate judgment or settlement, assuming there is one. In the event there is a judgment or settlement, counsel may make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement. All applications for attorneys' fees and costs are subject to Court approval.

WHAT SHOULD I DO IF I WANT MORE INFORMATION?

If you have any questions about this Notice or the Lawsuit generally, you may contact counsel for the class and collective, Hayes Pawlenko LLP, at (626) 808-4357.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VERNA MAXWELL CLARKE and LAURA WITTMANN, individuals on behalf of themselves and others similarly situated,

Plaintiff,

vs.

AMN SERVICES, LLC,

Defendant.

CASE NO. 2:16-cv-04132-DSF-KS

**NOTICE OF RIGHT TO JOIN
NATIONWIDE OVERTIME LAWSUIT**

YOU ARE NOT BEING SUED. THIS IS NOT AN ADVERTISEMENT. A COURT ORDERED THIS NOTICE. YOUR LEGAL RIGHTS MAY BE AFFECTED. PLEASE READ THIS NOTICE CAREFULLY.

TO: ALL CURRENT AND FORMER HOURLY EMPLOYEES OF AMN SERVICES, LLC AND ANY OF ITS BRANDS, INCLUDING AMERICAN MOBILE HEALTHCARE, NURSESRX, OWNWARD HEALTHCARE, NURSECHOICE, AND MEDICAL EXPRESS (COLLECTIVELY “AMN”) WHO WORKED **OUTSIDE OF** CALIFORNIA WITHIN THE PAST THREE YEARS.

WHAT IS THIS NOTICE ABOUT?

You are receiving this Notice because you may be eligible to join a collective action lawsuit involving claims for unpaid overtime wages under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”) entitled *Clarke, et al. v. AMN Services, LLC*, No. 2:16-cv-04132-DSF-KS (the “Lawsuit”). The Lawsuit is pending in the U.S. District Court for the Central District of California. The purpose of this Notice is to inform you of the option to join the Lawsuit and of the steps you must take should you wish to do so. If you are eligible to join, your legal rights could be affected. You may also wish to consult a tax professional about any potential tax implications of the Lawsuit.

WHAT IS A COLLECTIVE ACTION LAWSUIT, AND WHO IS INVOLVED?

In a collective action, one or more people referred to as “collective representatives” sue on behalf of other people who might be similarly situated. These people together are a “collective” or “collective members.” In a collective action, one court resolves the issues for those individuals who **choose to include** themselves in the collective.

Verna Maxwell Clarke and Laura Wittman (together “Plaintiffs”) are collective representatives in this Lawsuit. AMN Services, LLC is the defendant.

WHAT IS THE LAWSUIT ABOUT?

The Lawsuit alleges that AMN underpaid its employees overtime, in violation of the FLSA, by excluding the value of per diem benefits from the calculation of overtime pay rates. These per diem benefits include allowances for meal, incidental and housing expenses, as well the provision of actual housing. The Lawsuit alleges that AMN was required to include the value of these benefits in calculating overtime rates of pay. The Lawsuit seeks to recover unpaid overtime, interest, and liquidated damages. The two individuals who filed the lawsuit are Verna Maxwell Clarke and Laura Wittman, both of whom worked as travel nurses for AMN.

AMN disputes all claims that have been asserted in the Lawsuit and denies any wrongdoing or liability. The Court has not made any rulings on the merits of any of the claims or defenses asserted in the Lawsuit.

WHY AM I RECEIVING THIS NOTICE?

On October 12, 2017, the Court conditionally certified the Lawsuit's FLSA claim to proceed as a "collective action" on behalf of all employees fitting the following class description:

All non-exempt hourly employees employed by AMN in California at any time since September 13, 2013 or outside California at any time since December 15, 2013 whose employment was governed by a Professional Services Agreement that provided for per diem adjustments based on the number of hours and/or shifts missed and had the value of per diem benefits excluded from their regular rate for purposes of calculating overtime.

You received this Notice because you have been identified through AMN's records as someone who may fall within this description. Accordingly, you may be eligible to join this Lawsuit to seek to recover the overtime damages, if any, owed under the FLSA.

WHAT ARE MY OPTIONS IF I AM A POTENTIAL MEMBER OF THE NATIONWIDE FLSA COLLECTIVE ACTION?

1. You can do nothing and be excluded from the Lawsuit, or
2. Request to be included in the FLSA claim. This is referred to as "opting in."

HOW DO I JOIN THE LAWSUIT? (ACTION REQUIRED)

Action is required by you to join the Lawsuit. If you wish to join the Lawsuit and assert a claim for unpaid overtime under federal law, you must opt-in by completing and returning to the Class Action Administrator the enclosed "Consent to Joint Nationwide FLSA Collective Action" ***postmarked no later than [90 days from mailing].***

If you choose to complete and return the “Consent to Join Nationwide FLSA Collective Action,” you will be bound by any favorable or unfavorable judgment entered with respect to the FLSA claim. If the Plaintiffs obtain a judgment or settlement with respect to the FLSA claim, you will have the right to participate in it upon the terms that the Court approves. You will also be bound by any unfavorable judgment that may be rendered in favor of AMN with respect to the FLSA claim. You will give up the right to separately sue AMN for FLSA claims that are the same as or related to those alleged in the Lawsuit. Further, you will designate the collective action representatives (Plaintiffs and their attorneys) as your agents to make binding decisions on your behalf concerning the litigation.

***HOW DO I EXCLUDE MYSELF FROM THE NATIONWIDE FLSA COLLECTIVE ACTION?
(NO ACTION REQUIRED)***

If you do *not* wish to join the Lawsuit, you should *not* return the “Consent to Join Nationwide FLSA Collective Action.”

If you do not opt-in to the Lawsuit, you will not be affected by, and cannot participate in, the judgment rendered (whether favorable or unfavorable) or settlement, if any, reached in this case. Further, you will be free to file your own lawsuit at your own expense in any federal district court where such a lawsuit may be properly brought.

CAN I BE PUNISHED FOR JOINING THE LAWSUIT?

No. Federal law prohibits employers from retaliating or discriminating against you for joining this Lawsuit. Whichever option you choose, AMN cannot discriminate or retaliate against you based on your decision.

WHAT ATTORNEYS WILL REPRESENT ME IF I JOIN THE LAWSUIT?

If you choose to opt-in to the Lawsuit, your attorneys in the Lawsuit will be Hayes Pawlenko LLP, unless you separately retain your own attorney. Hayes Pawlenko LLP can be contacted as follows:

Matthew B. Hayes (mhayes@helpcounsel.com)
Kye D. Pawlenko (kpawlenko@helpcounsel.com)
Hayes Pawlenko LLP
595 E. Colorado Blvd., Suite 303
Pasadena, CA 91101
Tel.: 626.808.4357

WHAT FEES AND COSTS ARE INVOLVED IN THE LAWSUIT?

If you choose to join the Lawsuit and be represented by Hayes Pawlenko LLP, you will not be responsible for paying any out-of-pocket attorneys’ fees or litigation expenses. Counsel for the

collective has agreed to work on a contingency fee basis, which means that all attorneys' fees and expenses are payable only out of money recovered through any ultimate judgment or settlement, assuming there is one. In the event there is a judgment or settlement, counsel may make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement. All applications for attorneys' fees and costs are subject to Court approval.

WHAT SHOULD I DO IF I WANT MORE INFORMATION?

If you have any questions about this Notice or the Lawsuit generally, you may contact Plaintiffs' counsel, Hayes Pawlenko LLP, at (626) 808-4357.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VERNA MAXWELL CLARKE and LAURA WITTMANN, individuals on behalf of themselves and others similarly situated,

Plaintiff,

vs.

AMN SERVICES, LLC,

Defendant.

CASE NO. 2:16-cv-04132-DSF-KS

NOTICE OF CERTIFICATION OF CALIFORNIA-WIDE CLASS ACTION AND OF RIGHT TO JOIN NATIONWIDE OVERTIME LAWSUIT

YOU ARE NOT BEING SUED. THIS IS NOT AN ADVERTISEMENT. A COURT ORDERED THIS NOTICE. YOUR LEGAL RIGHTS MAY BE AFFECTED. PLEASE READ THIS NOTICE CAREFULLY.

TO: ALL CURRENT AND FORMER HOURLY EMPLOYEES OF AMN SERVICES, LLC AND ANY OF ITS BRANDS, INCLUDING AMERICAN MOBILE HEALTHCARE, NURSESRX, OWNWARD HEALTHCARE, NURSECHOICE, AND MEDICAL EXPRESS (COLLECTIVELY “AMN”) WHO WORKED IN CALIFORNIA SINCE SEPTEMBER 11, 2013.

WHAT IS THIS NOTICE ABOUT?

You are receiving this Notice because you may be part of a California-wide class action and a nationwide collective action that was recently certified by a federal court in a lawsuit entitled *Clarke, et al. v. AMN Services, LLC*, No. 2:16-cv-04132-DSF-KS (the “Lawsuit”). The Lawsuit is pending in the U.S. District Court for the Central District of California. The purpose of this Notice is to inform you of the Lawsuit and what you must do if you wish to be included in, or excluded from, the Lawsuit. If you are a member of the class, your legal rights could be affected by the Lawsuit. You may also wish to consult a tax professional about any potential tax implications of the Lawsuit.

WHAT IS A CLASS ACTION AND/OR COLLECTIVE ACTION LAWSUIT, AND WHO IS INVOLVED?

In a *class* action lawsuit, one or more people called “class representatives” sue on behalf of other people who might have similar claims. These people together are a “class” or “class members.” The employees who sued are called the Plaintiffs. The company they sue is called the Defendant. One court resolves the issues for everyone in the class—except for those who **choose to exclude** themselves from the class.

A *collective* action lawsuit is similar to a class action. In a collective action, one or more people referred to as “collective representatives” sue on behalf of other people who might be similarly situated. These people together are a “collective” or “collective members.” Unlike a class action, however, in a collective action one court resolves the issues only for those individuals who **choose to include** themselves in the collective.

Verna Maxwell Clarke and Laura Wittman (together “Plaintiffs”) are the class and collective action representatives in this Lawsuit. AMN Services, LLC (“AMN”) is the defendant.

WHAT IS THE LAWSUIT ABOUT?

First, the Lawsuit alleges that AMN underpaid its employees overtime, in violation of both California state law and federal law, by excluding the value of per diem benefits from the calculation of overtime pay rates. These per diem benefits include allowances for meal, incidental, and housing expenses, as well the provision of actual housing. The Lawsuit alleges that AMN was required to include the value of these benefits in calculating overtime rates of pay. The Lawsuit seeks to recover unpaid overtime, liquidated damages, and penalties under both California and federal law in connection with the overtime claims.

Second, the Lawsuit alleges that, in violation of California law, AMN provided its employees with paystubs that were inaccurate with respect to hours worked and rates of pay. The Lawsuit seeks to recover the damages and/or penalties allegedly owing under state law in connection with the wage statement claim.

AMN disputes all claims asserted in the Lawsuit and denies any wrongdoing or liability. The Court has not made any rulings on the merits of any claims or defenses asserted in the Lawsuit.

AM I A MEMBER OF ANY CERTIFIED CLASS OR COLLECTIVE?

With respect to the claims for violation of California state law, the Court has certified the following two California-wide classes:

- ***California Overtime Class:*** All non-exempt hourly employees employed by AMN in California from September 11, 2013 through October 12, 2017 who worked pursuant to a Professional Services Agreement that provided for per diem adjustments based on the number of hours and/or shifts missed and had the value of per diem benefits excluded from their regular rate for purposes of calculating overtime.
- ***California Wage Statement Class:*** All non-exempt hourly employees employed by AMN in California who worked pursuant to a Professional Services Agreement and worked overtime during one or more pay periods from May 7, 2015 through October 12, 2017.

With respect to the claim for unpaid overtime in violation of federal law, the Court has conditionally certified the following nationwide “collective action” pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. (“FLSA”):

- ***Nationwide FLSA Collective Action:*** All non-exempt hourly employees employed by AMN in California at any time since September 13, 2013 or outside California at any time since December 15, 2013 whose employment was governed by a Professional Services Agreement that provided for per diem adjustments based on the number of hours and/or shifts missed and had the value of per diem benefits excluded from their regular rate for purposes of calculating overtime.

You received this Notice because you have been identified through AMN’s records as someone who may fall within one or more of the groups of employees described above.

WHAT ARE MY OPTIONS IF I AM A MEMBER OF THE CALIFORNIA-WIDE CLASSES?

1. You can do nothing and, as a result, join the California-wide classes, or
2. Request to be excluded from this portion of the Lawsuit. This is referred to as “opting out.”

HOW DO I JOIN THE CALIFORNIA-WIDE CLASSES? (NO ACTION REQUIRED)

If you fall within the definitions of the “California Overtime Class” and/or the “California Wage Statement Class” set forth above, you will automatically become a class member unless you elect to exclude yourself from the California-wide classes by opting out. ***If you wish to remain a member of the California-wide classes, you do not need to do anything.*** If you so desire, you may enter an appearance through an attorney but you are not required to do so.

If you remain a member of the California-wide classes, you will be bound by any judgment entered in favor of or against the California-wide classes in ~~this~~the Lawsuit. If the Plaintiffs obtain a judgment or settlement on behalf of the California-wide classes, you will have the right to participate in it ~~upon~~on the terms ~~that~~ the Court approves. You will also be bound by any unfavorable judgment that may be rendered in favor of ~~the defendant~~.AMN. You will give up the right to separately sue defendant for legal claims that are the same or related to those alleged by the California-wide classes in the Lawsuit. Further, you will designate the class representatives (Plaintiffs and their attorneys) as your agents to make binding decisions on your behalf concerning the litigation.

HOW CAN I EXCLUDE MYSELF FROM THE CALIFORNIA-WIDE CLASSES? (ACTION REQUIRED)

If you do ***not*** wish to remain a member of the California-wide classes, ***you must opt out*** by mailing to the Class Action Administrator a completed “California Class Exclusion Form” (enclosed herewith) **postmarked no later than [90 days after mailing]**.

If you timely mail the California Class Exclusion Form to the Class Action Administrator, you will no longer be a member of the California-wide classes. You will not be eligible to receive money from any settlement or judgment in the event Plaintiffs prevail on any of the class claims and you will not be bound by any unfavorable judgment entered against the California-wide classes. You will retain the right to pursue your own claims against defendant AMN, but the statute of limitations period on your claims will continue to run.

WHAT ARE MY OPTIONS IF I AM A POTENTIAL MEMBER OF THE NATIONWIDE FLSA COLLECTIVE ACTION?

1. You can do nothing and be excluded from the FLSA portion of the Lawsuit, or
2. Request to be included in the FLSA claim. This is referred to as “opting in.”

HOW DO I JOIN THE NATIONWIDE FLSA COLLECTIVE ACTION? (ACTION REQUIRED)

Unlike the California-wide classes, you will *not* automatically be joined in the nationwide FLSA collective action. *Action is required by you to join the nationwide FLSA collective action.* If you wish to join the nationwide FLSA collective action and assert a claim for unpaid overtime under federal law, you must opt-in by completing and returning to the Class Action Administrator the enclosed “Consent to Join Nationwide FLSA Collective Action” **postmarked no later than [90 days after mailing].**

If you choose to complete and return the “Consent to Join Nationwide FLSA Collective Action,” you will be bound by any favorable or unfavorable judgment entered with respect to the FLSA claim. If the Plaintiffs obtain a judgment or settlement with respect to the FLSA claim, you will have the right to participate in it upon the terms that the Court approves. You will also be bound by any unfavorable judgment that may be rendered in favor of the defendant with respect to the FLSA claim. You will give up the right to separately sue defendant AMN for FLSA claims that are the same as or related to those alleged in the nationwide FLSA collective action. Further, you will designate the collective action representatives (Plaintiffs and their attorneys) as your agents to make binding decisions on your behalf concerning the litigation.

HOW DO I EXCLUDE MYSELF FROM THE NATIONWIDE FLSA COLLECTIVE ACTION? (NO ACTION REQUIRED)

If you do *not* wish to join the nationwide FLSA collective action, you should *not* return the “Consent to Join Nationwide FLSA Collective Action.”

If you do not opt-in to the nationwide FLSA class action, you will not be affected by, and cannot participate in, the judgment rendered (whether favorable or unfavorable) or settlement, if any,

reached in this case. Further, you will be free to file your own lawsuit at your own expense in any federal district court where such a lawsuit may be properly brought.

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No. California and federal law prohibits employers from discriminating or retaliating against you for joining ~~this~~the Lawsuit. Whichever option you choose, AMN cannot discriminate or retaliate against you based on your decision.

WHAT ATTORNEYS REPRESENT THE CLASS AND COLLECTIVE?

The law firm representing the California-wide classes and nationwide FLSA collective is Hayes Pawlenko LLP, and the attorneys at that firm handling the case can be reached as follows:

Matthew B. Hayes (mhayes@helpcounsel.com)
Kye D. Pawlenko (kpawlenko@helpcounsel.com)
Hayes Pawlenko LLP
595 E. Colorado Blvd., Suite 303
Pasadena, CA 91101
Tel.: 626.808.4357

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You are receiving this Notice because you may be eligible to join a collective action lawsuit involving claims for unpaid overtime wages under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”) entitled *Clarke, et al. v. AMN Services, LLC*, No. 2:16-cv-04132-DSF-KS (the “Lawsuit”). The Lawsuit is pending in the U.S. District Court for the Central District of California. The purpose of this Notice is to inform you of the option to join the Lawsuit and of the steps you must take should you wish to do so. [If you are eligible to join, your legal rights could be affected. You may also wish to consult a tax professional about any potential tax implications of the Lawsuit.](#)

WHAT IS A COLLECTIVE ACTION LAWSUIT, AND WHO IS INVOLVED?

In a collective action, one or more people referred to as “collective representatives” sue on behalf of other people who might be similarly situated. These people together are a “collective” or “collective members.” In a collective action, one court resolves the issues for those individuals who **choose to include** themselves in the collective.

Verna Maxwell Clarke and Laura Wittman (together “Plaintiffs”) are collective representatives in this Lawsuit. AMN Services, LLC (~~“AMN”~~) is the defendant.

WHAT IS THE LAWSUIT ABOUT?

The Lawsuit alleges that AMN underpaid its employees overtime, in violation of the FLSA, by excluding the value of per diem benefits from the calculation of overtime pay rates. These per diem benefits include allowances for meal, incidental and housing expenses, as well the provision of actual housing. The Lawsuit alleges that AMN was required to include the value of these benefits in calculating overtime rates of pay. The Lawsuit seeks to recover unpaid overtime, interest, and liquidated damages. The two individuals who filed the lawsuit are Verna Maxwell Clarke and Laura Wittman, both of whom worked as travel nurses for AMN.

AMN disputes all claims that have been asserted in the Lawsuit and denies any wrongdoing or liability. The Court has not made any rulings on the merits of any of the claims or defenses asserted in the Lawsuit.

WHY AM I RECEIVING THIS NOTICE?

On October 12, 2017, the Court conditionally certified the Lawsuit's FLSA claim to proceed as a "collective action" on behalf of all employees fitting the following class description:

All non-exempt hourly employees employed by AMN in California at any time since September 13, 2013 or outside California at any time since December 15, 2013 whose employment was governed by a Professional Services Agreement that provided for per diem adjustments based on the number of hours and/or shifts missed and had the value of per diem benefits excluded from their regular rate for purposes of calculating overtime.

You received this Notice because you have been identified through AMN's records as someone who may fall within this description. Accordingly, you may be eligible to join this Lawsuit to seek to recover the overtime damages, if any, owed under the FLSA.

WHAT ARE MY OPTIONS IF I AM A POTENTIAL MEMBER OF THE NATIONWIDE FLSA COLLECTIVE ACTION?

1. You can do nothing and be excluded from the Lawsuit, or
2. Request to be included in the FLSA claim. This is referred to as "opting in."

HOW DO I JOIN THE LAWSUIT? (ACTION REQUIRED)

Action is required by you to join the Lawsuit. If you wish to join the Lawsuit and assert a claim for unpaid overtime under federal law, you must opt-in by completing and returning to the Class Action Administrator the enclosed "Consent to Joint Nationwide FLSA Collective Action" ~~(enclosed herewith)~~ ***postmarked no later than [90 days from mailing].***

If you choose to complete and return the “Consent to Join Nationwide FLSA Collective Action,” you will be bound by any favorable or unfavorable judgment entered with respect to the FLSA claim. If the Plaintiffs obtain a judgment or settlement with respect to the FLSA claim, you will have the right to participate in it upon the terms that the Court approves. You will also be bound by any unfavorable judgment that may be rendered in favor of ~~the defendant~~AMN with respect to the FLSA claim. You will give up the right to separately sue ~~defendant~~AMN for FLSA claims that are the same as or related to those alleged in the Lawsuit. Further, you will designate the collective action representatives (Plaintiffs and their attorneys) as your agents to make binding decisions on your behalf concerning the litigation.

***HOW DO I EXCLUDE MYSELF FROM THE NATIONWIDE FLSA COLLECTIVE ACTION?
(NO ACTION REQUIRED)***

If you do *not* wish to join the Lawsuit, you should *not* return the “Consent to Join Nationwide FLSA Collective Action.”

If you do not opt-in to the Lawsuit, you will not be affected by, and cannot participate in, the judgment rendered (whether favorable or unfavorable) or settlement, if any, reached in this case. Further, you will be free to file your own lawsuit at your own expense in any federal district court where such a lawsuit may be properly brought.

CAN I BE PUNISHED FOR JOINING THE LAWSUIT?

No. Federal law prohibits employers from retaliating or discriminating against you for joining this Lawsuit. Whichever option you choose, AMN cannot discriminate or retaliate against you based on your decision.

WHAT ATTORNEYS WILL REPRESENT ME IF I JOIN THE LAWSUIT?

If you choose to opt-in to the Lawsuit, your attorneys in the Lawsuit will be Hayes Pawlenko LLP, unless you separately retain your own attorney. Hayes Pawlenko LLP can be contacted as follows:

Matthew B. Hayes (mhayes@helpcounsel.com)
Kye D. Pawlenko (kpawlenko@helpcounsel.com)
Hayes Pawlenko LLP
595 E. Colorado Blvd., Suite 303
Pasadena, CA 91101
Tel.: 626.808.4357

WHAT FEES AND COSTS ARE INVOLVED IN THE LAWSUIT?

If you choose to join the Lawsuit and be represented by Hayes Pawlenko LLP, you will not be responsible for paying any out-of-pocket attorneys’ fees or litigation expenses. Counsel for the

collective has agreed to work on a contingency fee basis, which means that all attorneys' fees and expenses are payable only out of money recovered through any ultimate judgment or settlement, assuming there is one. In the event there is a judgment or settlement, counsel may make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement. All applications for attorneys' fees and costs are subject to Court approval.

WHAT SHOULD I DO IF I WANT MORE INFORMATION?

If you have any questions about this Notice or the Lawsuit generally, you may contact Plaintiffs' counsel, Hayes Pawlenko LLP, at (626) 808-4357.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.