

NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN

If you worked for Faxton St. Luke’s Healthcare or St. Luke’s Home as an hourly employee in the last three years, had direct patient care responsibilities, and worked during a meal break without being compensated, a lawsuit may affect your rights.

A court authorized this notice. This is not a solicitation from a lawyer.

**TO ASK TO BE INCLUDED, YOU MUST ACT ON OR BEFORE
SEPTEMBER 15, 2009.**

- Employees have sued Faxton St. Luke’s Healthcare and St. Luke’s Home (referred to in this notice as “Faxton St. Luke’s”) claiming Faxton St. Luke’s failed to pay employees with direct patient care responsibilities for work performed during meal periods.
- The Court has allowed the lawsuit to be conditionally certified as a collective action on behalf of present and former hourly employees of Faxton St. Luke’s with direct patient care responsibilities who have been subject to automatic meal break deductions through the use of the Kronos system and who have or may have worked through or during unpaid meal breaks without compensation during the past three years.
- The Court has not decided whether Faxton St. Luke’s did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

ASK TO BE INCLUDED	<p>Join in this lawsuit. Await the outcome. Give up right to sue separately.</p> <p>By joining, you keep the possibility of getting money or benefits that may come from a trial or a settlement. But, by doing so you give up any rights to sue Faxton St. Luke’s separately about the same legal claims in this lawsuit.</p>
DO NOTHING	<p>Do nothing. Keep right to sue separately.</p> <p>If you do nothing and money or benefits are later awarded in this case, you won’t share in those. By not joining, you keep any rights to sue Faxton St. Luke’s separately about the same legal claims in this lawsuit. You should note, however, claims under the Fair Labor Standards Act must be brought within two (2) years of the alleged violation unless the violation of the law was “willful,” in which case it must be brought within three (3) years.</p>

BASIC INFORMATION

1. Why did I get this notice?

On November 13, 2008, a group of former and/or current employees of Faxton St. Luke's filed a lawsuit in the United States District Court for the Northern District of New York (08-cv-1219 (DNH/DEP)), claiming among other things that they were not compensated for work performed during meal breaks. Faxton St. Luke's records show that you currently work, or previously worked, for Faxton St. Luke's in a position with direct patient care responsibilities.

This notice informs you of the existence of a collective action lawsuit in which you may become a member. It also explains what you need to do to participate, or not participate and how your rights may be affected.

On January 26, 2009, the Honorable David E. Peebles, United States Magistrate Judge for the Northern District of New York, authorized the sending of this Notice to inform you of your rights to join this lawsuit.

2. What is a collective action and who is involved?

In a collective action lawsuit, two or more people who have similar claims against an employer are permitted to assert those claims in a single lawsuit. The people who decide to participate in the lawsuit are called the plaintiffs. The employer they sued (in this case Faxton St. Luke's) is called the defendant. One Court resolves the issues for everyone in the collective action—except for those people who choose not to join.

In this case, the Court has determined preliminarily that certain hourly employees with direct patient care responsibilities who were subject to automatic meal period deduction and who allege to have worked through or during unpaid meal breaks without compensation during the past three years may have sufficiently similar claims that it makes sense to send this notice of rights to such employees.

3. What does the lawsuit complain about?

In the lawsuit, the plaintiffs claim that Faxton St. Luke's had a practice which deducted 30 minutes from employees' workdays for meal periods even when employees performed compensable work during meal periods.

The plaintiffs allege that Faxton St. Luke's did not pay employees as required by law, and claim that they are owed unpaid overtime as a result, as well as additional damages that may be allowed by the law and attorneys' fees.

4. How does Faxton St. Luke's answer?

Faxton St. Luke's has denied Plaintiffs' allegations that it has engaged or now engages in these practices. Faxton St. Luke's maintains that it provided procedures which allowed employees to report when they worked during a meal break and that employees who made such reports were paid for working during their meal periods. Faxton St. Luke's has asserted that it exercised good faith in its application of the Fair Labor Standards Act to its employees.

5. Has the Court decided who is right?

The Court has not decided whether Faxton St. Luke's or the plaintiffs are correct. By preliminarily permitting the collective action and issuing this Notice, the Court is not suggesting that the plaintiffs will win or lose this case. The plaintiffs must prove their claims. Therefore there is no money or benefits available now and no guarantee there will be.

Once people have had the chance to opt in, the Court will decide whether people who have opted in may participate in the case. Only people "similarly situated" to the plaintiffs may participate. To determine whether you are indeed a proper member of the case, Faxton St. Luke's will likely ask the Court to engage in a review of the circumstances of your employment with Faxton St. Luke's, taking into account factors such as employment setting, recording and payment for time worked, any defenses asserted against you by Faxton St. Luke's, and other substantive and procedural issues.

YOUR RIGHTS AND OPTIONS

6. How do I join?

To participate in this lawsuit, you need to fill out the two enclosed forms and mail them in the enclosed self-addressed stamped envelope to the attorneys for the plaintiffs. It is entirely your own decision whether or not to join this lawsuit.

You must return the forms to the plaintiffs' attorneys by September 15, 2009.

If you fail to do so, you will not be allowed to participate in any recovery for the federal overtime claims in this lawsuit.

If you decide to join this suit, you will be bound by the settlement or judgment, whether it is favorable or not.

7. What if I do nothing?

If you do nothing, you will not participate in the collective action. You will not be bound by any decision on the federal overtime suit. Therefore, you will not be entitled to any recovery should there be any for those claims.

You can also start your own lawsuit against Faxton St. Luke's. You'll have to hire and pay your own lawyer for that lawsuit, and you'll have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Faxton St. Luke's, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

Claims under the Fair Labor Standards Act must be brought within two (2) years of the alleged violation unless the violation of the law was "willful," in which case it must be brought within three (3) years. If you do not bring any claims that you may have within these time periods by either opting-in to this lawsuit or filing your own separate lawsuit you will lose the right to do so. If you decide not to participate, the pendency of this lawsuit will not prevent the statute of limitations as to any claims you might have from running against you.

8. If I join, will there be any impact on my employment?

Federal law prohibits Faxton St. Luke's from discouraging or in any other way discriminating against you because you have exercised your rights under the FLSA. Such conduct would be illegal and you are entitled to damages should a court determine Faxton St. Luke's took any action against you for joining this lawsuit.

9. Do I have to do anything to help out with the lawsuit once I join?

The lawyers will handle most of the presentation of the case. From time-to-time, your lawyers will ask you for information and you would need to give that information to them. While this suit is proceeding, you may also be required to respond to written questions, sit for depositions and/or testify in court. Regardless, if you are asked to give information, plaintiffs' counsel will work with you so that the process is as convenient for you as possible.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The law firm of Thomas & Solomon LLP is the counsel representing the plaintiffs who have already joined this action.

Unless you choose another lawyer (see below), these attorneys would represent you in the action. You can contact the plaintiffs' attorneys at:

Patrick J. Solomon, Esq.
J. Nelson Thomas, Esq.
THOMAS & SOLOMON LLP
693 East Avenue
Rochester, NY 14607
Toll Free
1-877-272-4066
questions@theemploymentattorneys.com

11. Should I get my own lawyer?

You do not need to hire your own lawyer because Thomas & Solomon LLP is working on your behalf. You may hire a different lawyer if you wish to do so. You would be responsible for making the arrangements to hire that lawyer, including any fee arrangements. If you decide to have another attorney represent you, that attorney will need to draft a consent form for you which you should then mail to Thomas & Solomon LLP.

12. How will the lawyers be paid?

If the attorneys get money or benefits for the employees, they may ask the Court for fees and expenses. You won't have to pay these fees and expenses. If the Court grants the lawyers' request, the fees and expenses would be either deducted from any money judgment obtained or paid separately by Faxton St. Luke's.

If the Plaintiffs obtain money or benefits as a result of the trial or a settlement, you will be notified about how to participate. We do not know how long this will take.

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF NEW YORK

DAWN HAMELIN, et al.,)
)
Plaintiffs,)
)
v.)
)
FAXTON ST. LUKE'S HEALTHCARE, et al.,)
)
)
Defendants.)

CONSENT TO BECOME A
PARTY PLAINTIFF

Civil Action No.
6:08-CV-1219 (DNH/DEP)

I worked for Faxton St. Luke's Healthcare or St. Luke's Home as a _____
(Position)
from _____ to _____.
(Date) (Date)

By my signature below, I represent to the court that I am a present or former hourly employee of Faxton St. Luke's Health-
care or St. Luke's Home with direct patient care responsibilities.

I understand that this lawsuit is brought under the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201-209, and I hereby
consent, agree and opt-in to the above-captioned lawsuit as a party plaintiff in this lawsuit that has been filed seeking
payment of unpaid wages, and related relief against Faxton-St. Luke's Healthcare and St. Luke's Home Residential Care
Facility.

I authorize the representative plaintiffs or plaintiffs' counsel to file this consent with the Clerk of the Court.

Unless I opt to retain separate counsel of my own choice and at my own expense, I hereby further authorize the named
plaintiffs to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, any
agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit, in-
cluding any settlement, and I further agree to be bound by any judgment entered by the Court or any settlement of this
action.

_____/_____/_____
Signature Date

Print Full Legal Name

PLEASE RETURN THIS FORM IN TIME FOR FILING WITH
THE COURT BY **SEPTEMBER 15, 2009** TO:

Patrick J. Solomon, Esq.
J. Nelson Thomas, Esq.
Thomas & Solomon LLP
693 East Avenue
Rochester, New York 14607
1-877-272-4066

APPENDIX C

Name
Street Address
City, State, Zip

Notice to those who worked for Faxton St. Luke's Healthcare or St. Luke's Home

Jane Q. Class Member
123 Anywhere Street
Anytown, ST 12345-1234

(Above: Front of outside Notice mailing)