

NOTICE OF CLASS ACTION SETTLEMENT

Kurt Casadine, et al. v. Maxim Healthcare Services, Inc.
Case No. **CV-12-10078-DMG-CWx**

TO: All current and former California employees of Maxim Healthcare Services, Inc. (“Defendant”) who were hired into or held the position of certified home health aide / home health aide, companion care homemaker / companion care provider, companion caregiver, and caregiver-personal care assistant and who worked 24-hour live-in shifts during the period beginning October 24, 2008 through March 31, 2015.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit currently pending in the United States District Court for the Central District of California entitled *Kurt Casadine, et al. v. Maxim Healthcare Services, Inc.*, Case No. CV-12-10078-DMG-CWx (the “Action”). The purpose of this Notice of Class Action Settlement (“Notice”) is to describe the case, and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action. The proposed Settlement was preliminarily approved by the Court on May 22, 2015.

A final approval hearing concerning the fairness of the Settlement will be held before the Hon. Dolly M. Gee on September 18, 2015 at 11:00 a.m. at 312 N. Spring Street, Los Angeles, CA 90012.

YOU MUST COMPLETE AND MAIL THE ENCLOSED CLAIM FORM (“CLAIM FORM”) TO THE CLAIMS ADMINISTRATOR BY AUGUST 21, 2015, TO ENSURE YOUR ELIGIBILITY TO RECEIVE A PAYMENT UNDER THE SETTLEMENT. IF YOU FAIL TO SUBMIT A TIMELY CLAIM FORM, YOU WILL STILL BE BOUND BY THE RELEASE OF CLAIMS DESCRIBED IN THIS NOTICE, UNLESS YOU REQUEST TO BE EXCLUDED FROM THE SETTLEMENT, AS EXPLAINED BELOW. IF YOU DO NOT REQUEST EXCLUSION, AND YOUR NOTICE WAS NOT RETURNED UNDELIVERABLE, A PAYMENT MAY BE MAILED TO YOU AT YOUR LAST KNOWN ADDRESS.

Who is affected by this proposed Settlement?

The Court has conditionally certified, for Settlement purposes, the following settlement class (the “Class”):

“[A]ll individuals who worked for Maxim in California as a Live-In Caregiver between October 24, 2008 and March 31, 2015.”

“Live-In Caregiver” is defined as “those individuals currently or formerly employed by Maxim who are referred to in Maxim records under a number of different job titles, including certified home health aide / home health aide, companion care homemaker / companion care provider, companion caregiver, and caregiver-personal care assistant and who worked 24-hour live-in shifts for Maxim in California.”

According to the records of Defendant, you are a member of the Class (“Class Member”). There are approximately 371 Class Members.

What is this case about?

In the Action, Plaintiffs Kurt Casadine and Alfred Guerrero (“Plaintiffs” or “Class Representatives”) allege that Defendant failed to pay “Live-In Caregivers” for all hours worked. Casadine alleged failure to pay minimum wages, failure to pay wages due upon termination, failure to provide accurate and itemized wage statements, and violations of the Unfair Competition Law. Guerrero alleges claims for penalties under California’s Private Attorneys General Act (“PAGA”).

Defendant denies Plaintiffs’ allegations. Defendant contends that its Live-In Caregivers – who are properly classified as exempt from many provisions of the Labor Code and Wage Order 15-2001– were paid minimum wages for all hours worked that were required to be compensated. However, both Plaintiffs and Defendant recognize the risks and costs associated with litigation.

This Settlement is the result of good faith, arm’s length negotiations between Plaintiffs and Defendant, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Class Members.

The Court has not ruled on the merits of Plaintiffs’ claims or Defendant’s defenses. The Settlement is a compromise and is not an admission of liability on the part of Defendant.

Who are the attorneys representing the Parties?

The attorneys for the Class Representatives in the Action (“Class Counsel”) are:

Kevin Mahoney
Sean M. Blakely
Mahoney Law Group, APC
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Tel.: (562) 590-5550

Jose R. Garay, Esq.
JOSE GARAY, APLC
9861 Irvine Center Drive
Irvine, CA 92618
Tel.: (949) 208-3400

The attorneys for Defendant are:

John S. Battenfeld
Morgan, Lewis & Bockius LLP
300 South Grand Avenue, 22nd Floor
Los Angeles, CA 90071-3132
Tel: (213) 612-2500

Rebecca D. Eisen
Shannon B. Nakabayashi
Morgan, Lewis & Bockius LLP
One Market, Speak Tower
San Francisco, CA 94105
Tel: (415) 442-1000

What are the Settlement terms?

Subject to final Court approval, Defendant will pay a total amount of \$630,000.00 (the “Maximum Settlement Amount”) for: (a) payments to Class Members who do not opt out of the class and who either submit claim forms or are sent a Notice that is not returned undeliverable; (b) the Court-approved service payments to the Class Representatives; (c) the Court-approved Class Counsel fees and costs; (d) the PAGA penalty payment to the LWDA; and (e) the costs of administering the Settlement.

Class Member Claims. After deduction from the Maximum Settlement Amount for attorneys’ fees and costs, the service payments to the Class Representatives, the PAGA penalty payment to the LWDA, and the costs of administering the Settlement, Defendant will make a payment (“Settlement Payment”) to each eligible Class Member as follows: (i) a “Live-In Shift Settlement Amount” will be determined by dividing the Net Settlement Amount (\$630,000.00 minus fees and costs as set forth in (a) – (e) above) divided by the total number of Live-In Shifts worked by all Class Members between October 24, 2008 and March 31, 2005; (ii) the Live-In Shift Settlement Amount will be multiplied by the number of Live-In shifts each Class Member individually worked during the Class Period.

- All Class Members who timely complete and return a Claim Form as well as any Class Members who submit a late claim form that is nonetheless accepted by Defendant (“Qualified Claimants”) will be mailed a check in the amount of their Settlement Payment, subject to potential increase as explained below.
- All Class Members who do not Opt-Out of the settlement, and who can be located, as explained below, and who do not submit a Claim Form will be mailed a check in the amount of their Settlement Payment. Cashing or depositing that check will be deemed acceptance of the release of FLSA claims.
- Any settlement amounts allocated to Class Members who cannot be located after reasonable address verification measures, will be redistributed on a pro rata basis to the Qualified Claimants.

For income and payroll tax purposes, 33.33% of the Settlement Payment will be attributed to unpaid wages (which shall be subject to required withholdings and deductions and reported as wage income as required by law) and 66.66% to penalties, including PAGA penalties and interest, which shall not be subject to withholdings.

None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the tax consequences of payments to any Class Member.

Class Counsel Attorneys' Fees and Costs, Class Representatives Service Payments, and Administrative Costs. Class Counsel will ask the Court to approve an award of attorneys' fees up to \$210,000.00 (33.33% of the Maximum Settlement Amount) and Class Counsel's costs up to \$25,000.00. In addition, Class Counsel will ask the Court to approve a service payment of up to \$10,000.00 for Class Representative Kurt Casadine and \$2,000.00 for Class Representative Alfred Guerrero, in addition to the Class Representatives' Settlement Payment as Qualified Claimants. The Parties estimate the cost of administering the Settlement will be \$7,000.00.

What claims are being released by the proposed Settlement?

Upon the Effective Date of the Settlement, Plaintiffs and each member of the Settlement Class shall be deemed to have fully, finally, and forever released the Releasees from all Released Claims through March 31, 2015. "Settlement Class" shall mean all Class Members who do not timely send a signed Opt-Out Request that is received by the Claims Administrator regardless of whether or not they submit a Claim Form. "Releasees" shall mean Defendant and each of its past, present and/or future, direct and/or indirect, officers, directors, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, members, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, and/or assigns, in their personal, individual, official, and/or corporate capacities. "Released Claims," as to each member of the Final Settlement Class, shall mean any and all claims against Releasees that were or could have been pled based on the allegations of the Second Amended Complaint and Third Amended Complaint, including, but not limited to, claims based on applicable state or local wage and hour laws and regulations, including the Private Attorneys General Act ("PAGA"), that accrued or accrue through the Preliminary Approval Date, whether based on California's Wage Orders, and/or claims for wages and penalties under the California Labor Code, related tort, contract, and punitive damages claims, claims for interest, attorneys' fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief, and violations of California Business & Professions Code § 17200 *et seq.* In addition, all Qualified Claimants and all Class Members who cash or deposit a Settlement Payment consent to the release of claims that could have been asserted under the Fair Labor Standards Act based on the facts alleged in the Second Amended Complaint and Third Amended Complaint, including claims for wages, penalties, liquidated damages, interest, attorneys' fees, costs and equitable relief. "Effective Date" means the date on which the Judgment becomes a Final Judgment.

What are my options in this matter?

You have **three** options under this Settlement, each of which is discussed below. You may: (A) remain in the Class and submit a Claim Form; (B) remain in the Class and do nothing; or (C) exclude yourself from the Class and from the Settlement. If you choose option (A) or (B), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel other than the Court-approved Class Counsel's fees and costs paid out of the Maximum Settlement Amount. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement pursuant to Option C, you will be subject to any judgment that will be entered in this Action, including the release of the Released Claims as described above, even if you do not make a claim and do not receive any money from the Settlement.

OPTION A. Submitting a Claim for Payment. If you wish to remain in the Class and ensure your eligibility to secure a Settlement Payment, and possibly receive an increased payment, you must complete, sign, and mail the enclosed Claim Form to the Claims Administrator at the address listed below. Please be sure to update your address on the Claim Form if it has changed as this is where the Settlement Payment will be mailed. Your Claim Form must be postmarked no later than August 21, 2015. Late or incomplete Claim Forms will generally not be honored, except that Defendant may, in its sole and absolute discretion, decide to accept a late Claim Form.

The Claims Administrator's contact information is:

***Phoenix Settlement Administrators
P.O. Box 27907
Santa Ana, Ca. 92799
(888) 613-5553***

FEDERAL AND STATE LAW PROTECTS CLASS MEMBERS AGAINST RETALIATION BASED ON THEIR
DECISION TO PARTICIPATE IN A CLASS ACTION SETTLEMENT.

OPTION B. If You Do Nothing. If you do nothing in response to this Notice, you will be mailed a check for your Settlement Payment under the Settlement. If the Claims Administrator cannot determine your current address, your Settlement Payment will be redistributed pro rata to those who submit a Claim Form under Option A. If the Settlement receives final approval, you **will** be deemed to have released the Released Claims against the Releasees as set forth above and you will be barred from pursuing your own action for claims set forth in this class action lawsuit. Additionally, if you cash or deposit your Settlement Payment check, you will be deemed to also have released claims brought under the FLSA. If you do not submit a claim form, you will not be eligible to receive a pro rata share of any additional funds distributed as a result of the Claims Administrator being unable to locate any Class Members.

OPTION C. If You Do Not Want To Be Bound By The Settlement. If you do not want to be part of the Settlement, you must complete, sign, and mail the enclosed Exclusion Form to the Claims Administrator. In order to be valid, your opt-out request must be postmarked on or before August 21, 2015. If you do not timely submit an executed Opt-Out Request (as evidenced by the postmark), any untimely Opt-Out Request will be rejected, you will be deemed a member of the Settlement Class, and you will be bound by the release of Released Claims as described in the “What claims are being released by the proposed Settlement?” section above and all other Settlement terms. If you timely submit an executed Opt-Out Request, you will not be mailed a Settlement Payment, you will have no further role in the Action, and for all purposes, you will be regarded as if you never were either a party to this Action or a Class Member and you will not be entitled to or permitted to assert an objection to the Settlement.

YOU CANNOT SUBMIT BOTH A CLAIM FORM AND AN OPT-OUT REQUEST. IF YOU SUBMIT BOTH AND YOU DO NOT SUBSEQUENTLY CLARIFY YOUR INTENTION TO OPT OUT, YOU WILL BE PART OF THE SETTLEMENT CLASS, YOU WILL BE ELIGIBLE FOR A SETTLEMENT PAYMENT, AND YOU WILL BE BOUND BY THE TERMS OF THE SETTLEMENT.

Objecting to the Settlement: If you believe the proposed Settlement is unfair or inadequate in any respect, you may object to the Settlement, either personally or through an attorney at your own expense, by mailing a written objection and a notice of intention to appear at the Final Approval Hearing to Class Counsel, Counsel for Defendant, and the Claims Administrator at their respective addresses listed above. **You cannot object to the Settlement if you timely request exclusion from the Settlement**, as provided under Option C above.

All objections must be signed and set forth your name and address, and the name and number of the Action: *Kurt Casadine, et al. v. Maxim Healthcare Services, Inc.*, CV-12-10078-DMG-CWx. All objections must be mailed to Class Counsel, Counsel for Defendant, and the Claims Administrator, no later than August 21, 2015. If you submit a timely objection, you may appear, either personally or through an attorney, at your own expense, at the Final Approval Hearing, discussed below. Your objection must clearly state 1) the reasons why you believe the Court should find that the proposed Settlement is not in the best interest of the Settlement Class, and 2) the reasons why the Settlement should not be approved.

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

Even if you file an objection, you will be bound by the terms of the Settlement, including applicable releases as set forth above, unless the Settlement is not finally approved by the Court.

How do I dispute the information on my Claim Form?

The Claim Form that was sent to you has the number of eligible Live-In Shifts you worked for Maxim. This is based on information provided by Defendant. If you wish to dispute this information, you must provide documents or other evidence showing that the information on the Claim Form is incorrect. The Claims Administrator will review this information and will obtain any other additional information that it needs from Defendant to make a decision regarding your dispute, including whether it has any impact on the amount of your Settlement Payment. The determination of the Claims Administrator is final and binding.

What is the next step in the approval of the 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 settlement administration costs, and the service payments to the Class Representatives on September 18, 2015 at 11:00 a.m. in Courtroom 7 of the United States District Court, Central District of California, located at 312 N. Spring Street, Los Angeles, CA 90012. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive a Settlement Payment.

How can I get additional information?

This Notice only summarizes the Action, the basic terms of the Settlement, and other related matters. For more information, you may review the Court’s files, including the Motion for Preliminary Approval and Stipulation of Settlement, which are on file with the Office of the Clerk of the United States District Court, located at 312 N. Spring Street, Los Angeles, CA 90012. You can also request a copy of relevant pleadings from Class Counsel, at the address and telephone number listed above.

Any questions regarding this Notice or the Claim Form should be directed to the Claims Administrator or to Class Counsel at the above addresses and telephone numbers.

What happens if my address has changed or changes?

If you submit a valid Claim Form, your settlement payment will be sent to the address provided on your Claim Form. Otherwise your Settlement Payment will be sent to your last known address as determined by the Claims Administrator. Therefore, if your address changes or is different from the one on the preprinted Claim Form, you must correct it by notifying the Claims Administrator in writing, by First-Class U.S. Mail.

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