

ORANGE COUNTY SUPERIOR COURT
Oscar Benitez, Lan Le, Shaquille Howard, and Mario Jorge Estrada-Peralta et al. v. Medtronic, Inc. and Covidien LP.

Case No. 30-2019-01069185-CU-OE-CXC

Consolidated with the following cases:

Benitez – 30-2019-01106385

Le – 30-2020-01140338

Le – 30-2020-01144725

Howard – 30-2020-01159995

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

To: All current and former non-exempt employees of Defendants, either direct or workers placed through staffing agency, who worked for Defendants in the State of California from October 21, 2015 through September 15, 2021, other than those who opt-out for whom an address could be located as of August 23, 2022.

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

WHY DID I GET THIS NOTICE?

You have received this Notice because Medtronic, Inc. and Covidien LP (“Defendants”) records reflect that you are or may be a class member in a pending class action listed above that is pending in the Orange County Superior Court, Case No. 30-2019-01069185-CU-OE-CXC - *Consolidated with the following cases:* 30-2019-01106385; 30-2020-01140338; 30-2020-01144725; and 30-2020-01159995 (the “Action”), and you may be entitled to money from the settlement of that Action.

This Notice is court approved and informs you of the terms of the agreement of the Parties to settle the claims as set forth and embodied in a Class Action Settlement Agreement, Release and Stipulation (“Settlement”). This Notice explains what steps you may take to participate in, object to, or exclude yourself from the Settlement.

WHAT IS THIS ACTION ABOUT?

The Action was initially filed on May 10, 2019, on behalf of Plaintiff Oscar Benitez, and later added Lan Le, Shaquille Howard and Mario Jorge Estrada-Peralta (“Named Plaintiffs”), and other similarly situated current and former employees of Defendants. The Action, as amended, pleads claims on behalf of Named Plaintiffs and a proposed class against Defendants for: (1) failure to pay minimum wage and/or overtime compensation for all hours worked; (2) failure to provide meal periods or pay a premium in lieu thereof; (3) failure to authorize and permit rest periods or pay a premium in lieu thereof; (4) failure to timely pay final wages at the time of termination/end of employment; (5) inaccurate wage statements; (6) failure to reimburse employees for business expenses; (7) unfair business practices; and (8) claims for penalties under the Private Attorney General Act. Named Plaintiffs seek to recover various damages and costs and penalties, including unpaid wages, premiums, restitution, interest, penalties, and attorneys’ fees and costs. A copy of the First Amended Consolidated Complaint is on file with the Court.

Defendants deny each and all of the claims and contentions alleged by Named Plaintiffs. Defendants believe strongly that they have multiple valid defenses to the claims and that their employees have been properly paid and treated in accordance with the law. Absent the Settlement, Defendants would contest vigorously the lawsuit. By agreeing to this Settlement, Defendants are not admitting that it has any liability.

After engaging in extensive formal and informal discovery, an all-day mediation before an experienced mediator Lisa Klerman, the Parties agreed to the Settlement, which was preliminarily approved by the trial court in the Action (“Court”) on February 10, 2022, as amended by the Court on September 15, 2022. Named Plaintiffs and Class Counsel support the Settlement.

Neither the Court nor any other fact finder has decided whether the claims brought by the Named Plaintiffs (or Defendants' defenses) are meritorious. By approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. Rather, the Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and any final determination of those issues will be made at the final hearing. Defendants reserves the right, if for any reason the Settlement fails, to contest any factual or legal allegations in the Action and whether this Action should proceed as a class action.

WHAT IS A CLASS ACTION?

In a class action lawsuit, one or more persons sue on behalf of other people who may have similar claims. Oscar Benitez, Lan Le, Shaquille Howard and Mario Jorge Estrada-Peralta are the Class Representatives or Named Plaintiffs in the Action, and have asserted claims on behalf of themselves and the class against Defendants. A class action allows one court to resolve all of the issues in a lawsuit for all the class members who choose not to exclude themselves from the class.

A class member is bound by the determination or judgment entered in the case, whether the class wins or loses, and may not file his or her own lawsuit on the same claims that were decided in the class action.

WHO IS INCLUDED IN THE SETTLEMENT CLASS?

The settlement class includes **all current and former non-exempt employees of Defendants, either direct or workers placed through a staffing agency who worked for Defendants, in the state of California from October 21, 2015 through September 15, 2021 (referred to as the "Class Period") for whom an address was located as of August 23, 2022**, other than those who opt-out (as discussed below). This group individually and collectively will be referred to as "Class Members."

WHAT ARE THE TERMS OF THE CLASS SETTLEMENT?

Defendants will pay a fixed "Gross Settlement Amount" in the amount of (\$6,528,558.58) in exchange for: the release by Settlement Class Members of Settled Claims (defined below) and Settled PAGA Claims (defined below) against Defendants and Released Parties (defined below); final judgment on the Action; and the other terms set forth in the Settlement. Subject to Court approval, the Gross Settlement Amount will be allocated as follows:

- **Individual Settlement Allocation:** \$3,712,372.39 shall be allocated to all Settlement Class Members (defined below) and referred to in this notice as the "Net Settlement Amount" or "NSA." Settlement Class Members who do not request to be excluded from the Settlement will receive a pro-rata share of the Net Settlement Amount automatically, which will be referred to in this notice as the "Individual Settlement Allocation." The Individual Settlement Allocation will be calculated by dividing the number of Pay Periods reflected in the company's records and estimates for you during the Class Period by the total Pay Periods worked by all Settlement Class Members during the Class Period as reflected in company records and estimates. Pay Periods worked shall be determined by the Settlement Administrator based on data to be provided by Defendants, as may be modified by the Settlement Administrator's or Court's resolution of any challenges. The Court will resolve any Pay Period disputes not otherwise resolved by the Settlement Administrator and the Parties.
 - **Your estimated Individual Settlement Allocation is \$ _____.**
 - **Your estimated number of Pay Periods during the Class Period is _____.**
 - **Defendant was unable to determine your Social Security Number for the purpose of issuing you an Individual Settlement Allocation check. As a result, Phoenix has attached a W-9 form alongside this Notice for you to fill out and mail back to Phoenix at the following address: Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. The W-9 form must be mailed back to Phoenix by the December 13, 2022, otherwise Phoenix will be unable to issue you an Individual Settlement Allocation check. You may also provide your Social Security Number at the following website: <http://www.phoenixclassaction.com/benitez-v-medtronic>. Please enter the following Unique ID (<<PSA_ID>>) when logging in.**

Twenty percent (20%) of each Individual Settlement Allocation will be allocated to wages for which a W-2 shall be issued and eighty percent (80%) of each Individual Settlement Allocation will be considered penalties, interest and other non-wage related amounts, if any, and will be reported on an IRS Form 1099. The PAGA Payments to PAGA Members will be designated as payments for alleged penalties and other non-wage amounts and will be reported on an IRS Form 1099.

Settlement Class Members who do not request to be excluded from the Settlement will be forever barred from pursuing the Settled Claims against Defendants or any other Released Parties.

You have the right to challenge the number of Pay Periods allocated to you. If you dispute the number of Pay Periods please contact the Settlement Administrator with any and all evidence supporting your dispute. You will have until **December 13, 2022** to submit your dispute.

- **Enhancement Payment:** Named Plaintiffs will request an award not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) each in recognition of their work in this Action on behalf of the Class and a general release of all claims (except as to Plaintiff Le who has retained the claims pending in the United States District Court-- Southern District of California, Case No. 3:20-cv-02040-AJB-BLM).
- **Attorney's Fees and Expenses Payment:** Class Counsel (listed below) will seek a total amount of money not to exceed \$2,176,186.19 to be paid in accordance with the Settlement for any and all attorney's fees and \$55,000.00 in costs and expenses relating to the Action.
- **Settlement Administration:** The cost of settlement administration will not exceed \$45,000, which pays for tasks such as translating and mailing this Notice, mailing checks and tax forms, reporting to the parties and the Court, and tracking submitted requests for exclusions.
- **PAGA Penalty Payment:** Pursuant to California Labor Code Section 2698 *et seq.*, known as the Private Attorney General Act or "PAGA", the Parties designate \$500,000.00 of the Gross Settlement Amount as payment for Named Plaintiffs' claims on their own behalf and on behalf of all employees for penalties under the PAGA. Seventy-five percent (75%) of that amount, or \$375,000.00, will be paid to California's Labor & Workforce Development Agency ("LWDA"). The remainder shall be divided among PAGA Members, who are all Class Members who are employed or have been employed by Defendants in the state of California as non-exempt employees during the PAGA Class Period (May 10, 2018 through September 15, 2021) and you will not be able to opt-out or exclude yourself from this portion of the settlement.
 - **Your estimated PAGA payment is \$_____.**
 - **Your estimated number of PAGA Pay Periods during the Class Period is _____.**

WHAT AM I RELEASING UNDER THE SETTLEMENT?

Unless you timely exclude yourself from the class (as discussed below), you, on behalf of yourself and anyone who may claim through you, irrevocably and unconditionally forever and fully release (and covenant not to sue or otherwise pursue claims, whether known or unknown, against) any and all Released Parties from any and all Settled Claims.

"Released Parties" means Medtronic, Inc. and Covidien LP and their subsidiaries, affiliates, parents, all third-party entities who provided workers to Medtronic, Inc. and Covidien LP in California (including but not limited to Acara (previously known as Superior Talent Resources) 3Bridge Solutions, Advanced Clinical, Aerotek, Artech Information Systems LLC, ATR, Bentley Global Resources LLC, Collabera, Inc., DYPLOYIT, Inc., Employbridge, Engineering Technical Group, Entege Inc., Green Key Temp LLC, Horizontal Integration, Howroyd Wright Employment Agency, IG Inc., Infotree Service, Inc., Infoway Solutions, Insight Global, InterpPros Federation, InSync Staffing, iTech Solutions, Inc., Kelly Services, Inc., Kimco, Lancesoft Inc., Manpower, Mindlance, On Assignment Staffing Services, Populus Group, Pacific Rim Resources, Randstad North America, Inc., Robert Half International, Real Staffing Group, Superior Staffing, Specialist Staffing Solutions, TAJ Technologies, Tech-Pro, Tekmark Global Solutions, The Apelagao Group, The Ascent Services Group, Three Point Solutions, Inc., US Tech Solutions, Inc.) and attorneys and each of their company-sponsored employee benefit plans, and their respective successors and predecessors in interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents, and each of their past, present and future officers, directors shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, insurers and reinsurers.

“Settled Claims” means any and all claims alleged in the First Amended Consolidated Class Action and Representative Action Complaint filed on January 4, 2021 (the “Complaint”) or which could have been alleged in the Complaint based on the allegations, or facts alleged therein, and shall specifically include without limiting the generality thereof all causes of action listed in the Complaint that arose during the Class Period or PAGA Period. The release of the foregoing claims, extends to all theories of relief regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, whether under California law, state law or common law (including, without limitation, as violations of the California Labor Code, the Wage Orders, applicable regulations, and California’s Business and Professions Code Section 17200). “Settled Claims” includes all types of relief available for the above-referenced claims, including, without limitation, any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. are all claims for wages, statutory and civil penalties, damages and liquidated damages, interest, fees and costs that were alleged or could have been alleged under California law arising out of the allegations of the First Amended Consolidated Class Action and Representative Action Complaint filed on January 4, 2021, including, but not limited to: (1) claims for failure to pay minimum wage and/or overtime compensation for all hours worked; (2) failure to provide meal periods or pay a premium in lieu thereof; (3) failure to authorize and permit rest periods or pay a premium in lieu thereof; (4) failure to timely pay final wages at the time of termination/end of employment; (5) inaccurate wage statements; (6) failure to reimburse employees for business expenses; (7) unfair business practices; (8) claims for penalties under the Private Attorney General Act, including but not limited to under California Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1198, 2698 et seq., 2800, 2802, or any applicable Wage Order; and (9) premium pay or liquidated damages of any nature whatsoever, arising out of any conduct, events, or transactions occurring during the Class Period including without limitation, interest, attorneys’ fees and costs for the time periods described above through September 15, 2021. The Settled Claims as to the third-party entities/staffing agencies who provided Employees hired through a staffing agency to Medtronic, Inc. and Covidien LP in California is limited to the alleged violations set forth herein while working for Defendants Medtronic, Inc. and/or Covidien LP in California during the Class Period. If the Court grants final approval of the Settlement, then the Final Judgment shall expressly provide that it covers and bars as a matter of law each and every Class Member other than those who have opted out from asserting any Settled Claims in the future.

“Settled PAGA Claims” means any and or all PAGA claims alleged in the Action or which could have been alleged in the Action based on the allegations or facts alleged therein, and shall specifically include without limiting the generality thereof all causes of action listed in the Complaint. The release of the foregoing claims extends to all theories of seeking relief under PAGA for the specified claims regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, including under the California Labor Code, the Wage Orders, applicable regulations. “Settled PAGA Claims” includes all types of relief available for the above-referenced claims, including, without limitation, any claims for penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. If the Court grants final approval of the Settlement, then the Final Judgment shall expressly provide that it covers and bars Plaintiff, LWDA, the State of California, and any other representative, proxy, or agent thereof, including but not limited to any and all PAGA Members from prosecuting “Settled PAGA Claims” that arose during the PAGA Period. The Settled PAGA Claims as to the third-party entities/staffing agencies who provided workers through a staffing agency to Medtronic, Inc. and Covidien LP in California is limited to the alleged violations set forth herein while working for Defendants Medtronic, Inc. and/or Covidien LP in California during the PAGA Period.

WHAT DO I NEED TO DO TO RECEIVE AN INDIVIDUAL SETTLEMENT ALLOCATION?

To receive your Individual Settlement Allocation, you do not need to do anything. You must, however, notify the Settlement Administrator of any change in your name, mailing address and/or telephone number. It is your responsibility to keep the Settlement Administrator informed of any such change, as your Individual Settlement Allocation will be mailed to the address on file. Also, if you only worked for Defendants as a worker placed through a staffing agency, you need to provide the Settlement Administrator with your Social Security Number to receive a payment. To do so, please call Phoenix Settlement Administrators at (800) 523-5773.

Once you receive your Individual Settlement Allocation, you shall have One Hundred and Twenty (120) calendar days after mailing by the Settlement Administrator to cash your Settlement checks. If you do not cash your check within that period, your check will become void and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within One Hundred and Twenty (120) days of mailing shall be voided and delivered to California State Controller’s Unclaimed Property Fund or as otherwise directed by the Court. You will still be bound by the Settlement even if you don’t cash your settlement check(s).

Neither Defendants, nor any Released Party offers tax advice regarding this Settlement. You may consider contacting an accountant and/or tax attorney to determine the appropriate amount of taxes that should be paid on your Individual Settlement Allocation. Payments awarded to you will not form the basis for additional contributions to or benefits under any benefit plans, policies or bonus programs that may exist and/or be offered to you through, by or in conjunction with Defendants or any other Released Party.

WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?

You have the right to request exclusion from the Settlement other than the release of PAGA claims. To do so, you must fill out and submit the Opt-Out Form included in this packet to the Settlement Administrator at the following address: Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Fax: (949) 209-2503. To be valid, the Opt-Out Form must be: (1) filled out by you; (2) signed by you; and (3) must be postmarked or fax stamped by **December 13, 2022** and returned to the Settlement Administrator at the specified address or fax number. Unless you timely request to be excluded from the Settlement, you will be bound by the judgment upon final approval of the Settlement, and you will be barred from pursuing the Settled Claims. The Opt-Out Form will not impact your inclusion in the settlement and release of claims under the PAGA.

If you timely request to be excluded from the Settlement, you will not be entitled to receive any payment under the Settlement other than related to the PAGA if you are part of that settlement. Class Counsel will not represent your interests if you request to be excluded.

WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member (that is, Class Member who has not asked to be excluded from the Settlement) may object to the Settlement. If you object to the Settlement, you may, but you are not required to, appear at the hearing where the Court will make a final decision whether or not to approve the Settlement (“Final Approval Hearing”). The Final Approval Hearing is scheduled to take place on January 19, 2023, at 2:00 p.m. in Department CX102 of the Orange County Superior Court, located at the address below. The hearing may be continued (moved to another date) without further notice to you.

If you wish to object in writing, you may submit a written objection to the Settlement Administrator at the following address: Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. To be valid, the written objection must be signed by the Class Member and state: (1) the full name of the Settlement Class Member; (2) address of the Settlement Class Member; (3) the basis for the objection; and (4) if the Settlement Class Members intends to appear at the Final Approval Hearing. A Class Member who wishes to object must submit his or her objection to the Settlement Administrator no later than **December 13, 2022**. The Parties shall be permitted to file responses to the objection in addition to any motion for final approval documents. You may also object in person by appearing at the Final Approval Hearing.

The Court has decided that the law firms listed below under “CLASS COUNSEL” are qualified to represent the Settlement Class Members and PAGA Members. However, you have the right to retain your own attorney, at your own expense, to submit an objection or appear on your behalf at the Final Approval Hearing.

<p>CLASS COUNSEL</p> <p>DOUGLAS HAN SHUNT TATAVOS-GHARAJEH JUSTICE LAW CORPORATION 751 N. Fair Oaks Avenue, Suite 101 Pasadena, CA 91103 Telephone: (818) 230-7502 Facsimile: (818)230-7259</p> <p>JAMES HAWKINS CHRISTINA LUCIO JAMES HAWKINS, APLC 9880 Research Drive, Suite 200 Irvine, CA 92618 Telephone: (949) 387-7200 Facsimile: (949) 387-6676</p>	<p>DEFENDANT’S COUNSEL</p> <p>JODY A. LANDRY LITTLER MENDELSON, P.C. 501 West Broadway, Suite 900 San Diego, CA 92101</p> <hr/> <p>THE COURT</p> <p>CIVIL COMPLEX CENTER 751 West Santa Ana Blvd. Santa Ana, CA 92701</p>
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Submitting an objection will *not* exclude you from the Settlement. If the Court grants final approval of the Settlement, you will still have the right to receive an Individual Settlement Allocation and will be barred from pursuing the Settled Claims. Do not submit both an objection and request for exclusion. If you submit both a request for exclusion and an objection, you will be excluded from the class and the objection will not be considered, and you will remain part of the PAGA settlement.

WHAT HAPPENS IF I DO NOT EXCLUDE MYSELF FROM THIS SETTLEMENT?

The Settlement, if finally approved by the Court, will bind all Settlement Class Members who do not request to be excluded from the Settlement and PAGA members whether or not they receive or timely cash their Individual Settlement Allocations. Final approval of the Settlement will bar any Settlement Class Member who does not request to be excluded from the Settlement from hereafter initiating a lawsuit or proceeding regarding any Settled Claims and PAGA Members from pursuing released PAGA claims. The Class Action Settlement Agreement, Release and Stipulation on file with the Court contains additional details about the scope of the release.

FURTHER INFORMATION

The foregoing is only a summary of the Settlement. The Settlement, pleadings and all other records of this litigation may be examined and copied any time during regular office hours in the Clerk's Office of the Orange County Superior Court listed above as "THE COURT." In addition, you may obtain these records on the Orange County Superior Court's website at <http://www.occourts.org/online-services/case-access/> by clicking "Access Now" next to Civil Case & Document Access. You will need to accept the terms of the Information Disclaimer, and proceed to enter the case number listed at the top of this Notice and the security code provided on the webpage.

In addition, you may view the operative complaint, Settlement Agreement, order granting preliminary approval and, if final approval is granted, the order granting final approval and judgment, on the Settlement Administrator's website at www.phoenixclassaction.com/.

If you have any questions about the Settlement, you can contact Class Counsel, whose contact information is listed above in "CLASS COUNSEL" or the Settlement Administrator at:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773.

You may seek the advice and guidance of your own attorney at your own expense.

Any deadline to submit an exclusion, object or dispute the workweeks will be extended by 10 days if you were re-mailed the notice. Whether the Noticed has been re-mailed or not will be indicated on the envelope.

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS ABOUT THE SETTLEMENT OR ANYTHING IN THIS NOTICE YOU CAN CONTACT THE CLAIMS ADMINISTRATOR AT (800) 523-5773. YOU MAY ALSO CONTACT CLASS COUNSEL WHOSE INFORMATION IS LISTED ABOVE. ALTERNATIVELY, YOU CAN SEEK ADVICE FROM YOUR OWN COUNSEL AT YOUR OWN EXPENSE.