

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Katherine Devine et al. : CIVIL ACTION  
 : NO. 20-02417  
 Plaintiffs, :  
 :  
 v. :  
 :  
 NorthEast Treatment Centers, Inc. :  
 :  
 Defendant. :

**O R D E R**

**AND NOW**, this **5th** day of **November, 2020**, it is hereby **ORDERED** that the Stipulation, Exhibit A attached hereto, is **APPROVED** and made part of this Order.

It is **FURTHER ORDERED** that Plaintiffs' counsel shall notify the Court once the opt-in process concludes. Following such notification, the Court will hold a status and scheduling conference with counsel for the parties to fix future case deadlines.

**AND IT IS SO ORDERED.**

/s/ Eduardo C. Robreno  
EDUARDO C. ROBRENO, J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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KATHERINE DEVINE and LAVAR TURNER, on	:	
behalf of themselves and others similarly situated,	:	2:20-cv-02417-ER
Plaintiffs,	:	
v.	:	
	:	
NORTHEAST TREATMENT CENTERS, INC.,	:	
Defendant.	:	

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**STIPULATION AND ORDER**

NOW, this 4th day of November, 2020, Katherine Devine and Lavar Turner (“Originating Plaintiffs”) and Northeast Treatment Centers, Inc. (“Defendant”) STIPULATE as follows:

1. This action is conditionally certified, pursuant to 29 U.S.C. § 216(b), as a collective action on behalf of: **All individuals, who, during any week since November 1, 2017, were employed by Defendant as Case Managers or Aftercare Workers.** These individuals are referred to as “Putative Collective Members.” Moreover, Putative Collective Members who already have joined the action<sup>1</sup> or join the action pursuant to paragraph 7 below or are referred to as “Opt-Ins.”<sup>2</sup>

2. Defendant may oppose any motion for final certification of the collective or move to decertify the collective or otherwise argue that collective litigation is wholly or partially inappropriate. *See Mitchell v. Covance, Inc.*, 438 F. Supp. 3d 341, 345 (E.D. Pa. 2020) (Robreno, J.) (explaining that “conditional certification” is merely the initial step of a two-step certification process and that

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<sup>1</sup> Noldyanie Anglade, Talia Baldwin, Amanda Fernandez, Beverly Ford-Green, James Hilton, Natalye Kirkland, Toshia O’Brien, Tawanda Parker, Darlene Simon, Carolyn Smith, and Jerod Yates already have joined the action.

<sup>2</sup> The parties agree that the limitations period applicable to the FLSA claim of each Originating Plaintiff and Opt-In shall be tolled as the date on which his/her Consent Form is filed pursuant to paragraph 7 below. However, nothing herein prevents Defendant from arguing that the FLSA’s limitations period should run backwards only two – rather than three – years due to the absence of a “willful” FLSA violation. *See* 29 U.S.C. § 255(a).

“[d]uring the second step, known as ‘final certification,’ the named plaintiff must prove by a preponderance of the evidence that the opt-in plaintiffs are similarly situated to her and the court employs an ‘ad-hoc approach, which considers all the relevant factors [to] make[] a factual determination on a case-by-case basis’”).

3. The Pennsylvania Minimum Wage Act (“PMWA”) claim will not be pursued as a class action claim under Federal Rule of Civil Procedure 23. However, Originating Plaintiffs and the Opt-Ins will continue to assert individual PMWA claims.<sup>3</sup>

4. Within 14 calendar days of the Court’s entry of this Order, Defendant’s counsel will email to Plaintiffs’ counsel an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member. This spreadsheet will be designated confidential and treated as such by the parties.

5. Within 21 calendar days of the Court’s entry of this Order, Plaintiffs’ counsel will mail to all Putative Collective Members finalized copies of the attached “Notice of Collective Action Lawsuit” form (“Notice Form”), the attached “Consent to Join” form (“Consent Form”), and a postage-paid return envelope bearing Plaintiffs’ counsel’s address (together the “Notice Package”). Plaintiff’s counsel will advise Defendant’s counsel of the date of the mailing. Plaintiffs’ counsel will pay all postage and printing costs associated with the preparation and mailing of the Notice Packages for which Defendant shall not be responsible. If any Notice Package is returned as undeliverable, Plaintiffs’ counsel will make all reasonable efforts to update the address information and re-send the Notice Package and will notify Defendant’s counsel of the same.

6. In order to participate in this action, a Putative Collective Member must complete and

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<sup>3</sup> The parties currently disagree regarding the date upon which the PMWA claims of Opt-Ins should be tolled. Plaintiffs’ anticipate arguing that all Opt-Ins’ PMWA claims are tolled as of the May 22, 2020 filing of the complaint. Defendant, meanwhile, anticipates arguing that each Opt-In’s PMWA claim is tolled as of the date his/her Notice Form is filed pursuant to paragraph 7. The parties preserve all arguments in this regard.

sign his/her Consent Form and return it in an envelope postmarked on or before the deadline indicated in the Notice Package, which will be set at 45 calendar days after the initial mailing date. In addition, Consent Forms that are scanned and emailed or faxed directly by the Putative Collective Member to Plaintiffs' Counsel by such postmark deadline will be deemed timely.<sup>4</sup>

7. Plaintiffs' counsel will file with the Court each completed Consent Form within 5 business days of receipt.

8. The deadlines described in the Court's September 11, 2020 scheduling order (ECF No. 11) are **VACATED AS MOOT**. Within 72 calendar days of the Court's entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation.

9. Discovery is **STAYED** pending the completion of the above-described notice and opt-in process.

10. Nothing in this stipulation and order waives or is intended to waive any defenses that have been or may be asserted by Defendant in this matter

FOR PLAINTIFFS:

/s/ Peter Winebrake  
Peter Winebrake  
R. Andrew Santillo  
Mark Gottesfeld  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491

FOR DEFENDANT:

/s/ Douglas Diaz  
Douglas Diaz, Esq.  
Archer & Greiner P.C.  
One Centennial Square  
Haddonfield, NJ 08033  
(856) 616-2614

**AND IT IS SO ORDERED** this 5th day of November, 2020.

**/s/ Eduardo C. Robreno**

EDUARDO C. ROBRENO, J.

<sup>4</sup> If any Consent Form is filed after the 45-day deadline, Plaintiffs' counsel shall include in the filing: (i) a copy of the postmarked return envelope (if received by regular mail) or (ii) any documents necessary to prove the date and time on which the form was received (if received by email or fax). In addition, if Plaintiff receives the Consent Form by email or fax, Plaintiff's counsel shall make available any documents necessary to show that the email or fax was sent directly by the Putative Collective Member.

[insert mailing date]

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Devine, et al. v. Northeast Treatment Centers, Inc., 2:20-cv-02417-ER*  
United States District Court, Eastern District of Pennsylvania

**TO:** [INSERT NAME]

**PLEASE READ THIS NOTICE CAREFULLY**

**INTRODUCTION**

This Notice informs you of a collective action lawsuit against Northeast Treatment Centers, Inc. (“NET”) seeking unpaid overtime wages under federal and Pennsylvania law on behalf of Case Managers and Aftercare Workers. You have a right to, but are not required to, participate in the lawsuit.

**DESCRIPTION OF THE LAWSUIT**

The lawsuit was started in May 2020 by Katherine Devine (a former NET Case Manager) and Lavar Turner (a former NET Aftercare Worker and Case Manager).

The lawsuit is proceeding in the United States District Court in Philadelphia, PA and is assigned to Judge Eduardo C. Robreno.

The lawsuit seeks to cover the time period after May 20, 2017 and alleges that NET violated federal and state wage laws by failing to pay full overtime compensation for hours worked over 40 per week. Specifically, for the time period between May 20, 2017 and July 1, 2019, the lawsuit alleges that NET violated the law by paying Case Managers and Aftercare Workers a salary and classifying them as “exempt” from the overtime pay requirement. For the time period after July 1, 2019, the lawsuit alleges that NET failed to pay Case Managers and Aftercare Workers for all the overtime hours they actually worked.

NET denies the above allegations. According to NET, the pre-July 2019 classification of Case Managers and Aftercare Workers as overtime-exempt was valid and legal. NET also contends that, since July 2019, Case Managers and Aftercare Workers have been properly credited and paid for all of their overtime work.

The lawsuit is in its early stages. The Federal Court has not decided who will win.

You may be eligible join the lawsuit if you were employed by NET during any time after May 20, 2017 as a Case Manager or Aftercare Worker.

**HOW TO JOIN THE LAWSUIT**

You can join the lawsuit by completing the enclosed “Consent to Become Party Plaintiff” form and returning it in the enclosed envelope to the following address:

WINEBRAKE & SANTILLO, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
Fax: (215) 884-2492  
Email: [pwinebrake@winebrakelaw.com](mailto:pwinebrake@winebrakelaw.com)

Your return envelope must be postmarked by [*INSERT DATE*]. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

**EFFECT OF JOINING THE LAWSUIT**

If you join the lawsuit, you will be bound by the judgment of the Federal Court on all issues, including the reasonableness of any settlement. By joining the lawsuit, you authorize the named Plaintiffs to act as your agent and make decisions concerning the lawsuit in consultation with counsel. If Plaintiff wins, individuals who join the lawsuit may be eligible for a money payment. If NET wins, individuals who join the lawsuit will be entitled to nothing and you may possibly be required to pay your proportional share of taxable court costs.

If you join the lawsuit, you may be required to participate in the “discovery” process by, for example, gathering and producing documents, answering some written questions under oath, and, possibly, sitting for a deposition to answer questions under oath from NET’s attorneys. You may also be required to testify at trial. The law firm described below will represent you throughout the lawsuit.

**RETALIATION PROHIBITED**

If you join the lawsuit, federal law prohibits NET from retaliating against you as a result of your participation. However, participating in the lawsuit does not excuse current employees from complying with NET’s policies and procedures.

**EFFECT OF NOT JOINING THE LAWSUIT**

If you do not join the lawsuit, you will not be affected by any judgment or settlement resulting from the lawsuit, whether it is favorable or unfavorable.

**YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025. The firm’s website is [www.winebrakelaw.com](http://www.winebrakelaw.com), and its phone number is (215) 884-2491.

You are not required to pay any fees to this law firm. The firm has taken this case on a “contingency” basis. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Federal Court to award legal fees from the total recovery.

**THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE EDUARDO C. ROBRENO. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT’S MERITS.**