

Herrera v. Scripps Health, No. 37-2020-00017515-CU-OE-CTL
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN DIEGO
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who worked for Defendant Scripps Health (“Defendant” or “Scripps”) as a non-exempt, hourly employee in California and utilized paid time off pursuant to Scripps’ Paid Time Off or Sick Pay for Employees Not Eligible for PTO policies at any time between May 26, 2016 and **August 23, 2022**.

On **August 23, 2022**, the Honorable Keri G. Katz of the San Diego County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at **8:30 a.m. on February 3, 2023** in Department C-74 of the San Diego County Superior Court located at 330 W Broadway, San Diego, California 92101. You are not required to attend the hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiff Roberto Herrera, on behalf of himself and other current and former non-exempt employees, alleges that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay the appropriate rate of pay to employees for paid sick leave; (2) provide employees with accurate, itemized wage statements; and (3) timely pay all wages owed to employees during each pay period and upon termination of their employment.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On December 1, 2021, the parties participated in a mediation with Tripper Ortman, an experienced and well-respected class action mediator. With Mr. Ortman’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Mashiri Law Firm, APC and The Jami Law Firm P.C. (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believes that the claims alleged in this lawsuit have merit, they also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Scripps has also extensively investigated and researched the factual and legal issues raised in the case. Although Scripps believes it has meritorious defenses to the claims, Scripps has concluded that further defense of this case would be lengthy and expensive for all Parties. Scripps has, therefore, agreed to settle this matter in order to put to rest all claims that are or could have been asserted against it in the lawsuit. By agreeing to settle, Scripps does not admit liability on any of the factual allegations or claims in the case, or that the case can or should proceed as a class action.

Summary of The Proposed Settlement Terms

Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$1,500,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) the Class Representative Enhancement Payment of \$15,000 to Roberto Herrera for his services on behalf of the class; (3) \$500,000 in attorneys’ fees and up to \$30,000 in litigation costs and expenses; (4) a \$150,000 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection and accordance with the Labor Code Private Attorneys General Act of 2004 (“PAGA”), and (5) reasonable Settlement Administrator’s fees and expenses currently

estimated at \$94,750.00. After deducting the Class Representative Enhancement Payment, attorneys' fees and costs, the payment to the LWDA, and the Settlement Administrator's fees and expenses, a total of approximately \$710,250 will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount"). Each Class Member's settlement payment will be based on the number of Pay Periods each Class Member worked in a non-exempt position during the period from May 26, 2016 to August 23, 2022 ("Class Period"). The formula for calculating settlement payments is as follows:

- (a) The Settlement Administrator will calculate the aggregate total number of non-exempt Pay Periods in which Class Members utilized Paid Time Off during the applicable Class Period ("Total Pay Periods").
- (b) The value of each individual Pay Period shall then be determined by dividing the proceeds of the Net Settlement Amount by the Total Pay Periods, resulting in the "Pay Period Value".
- (c) An "Individual Settlement Payment" amount for each Class Member will then be determined by multiplying the individual Class Member's number of Pay Periods in which the Class Member utilized Paid Time Off by the Pay Period Value.
- (d) The entire Net Settlement Amount will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion.

According to Defendant's records, you utilized Paid Time Off during the Class Period in a non-exempt position for a total of [REDACTED] Pay Periods during the relevant time period. Accordingly, your estimated payment is approximately \$ [REDACTED]. If you believe the information provided above is incorrect, please contact the Settlement Administrator at (800) 523-5773. If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims ("Released Claims): Any and all claims, rights, demands, liabilities, and causes of action under state and federal law for unpaid wages, overtime, damages, penalties, interest, and attorneys' fees arising from, or reasonably related to, the claims asserted in the Second Amended Complaint and previously filed Complaints in this Action, during the Class Period, including without limitation: (i) all claims for unpaid sick pay wages; (ii) all claims for wage statement violations; (iii) all claims for the failure to timely pay wages during employment; (iv) all claims for the failure to timely pay wages upon termination; and (v) related claims asserted under the California Business & Professions Code sections 17200, *et seq.*, and California Labor Code sections 2698, *et seq.*

Questions? Contact the Settlement Administrator toll free at (800) 523-5773

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator
Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863

The written request to be excluded must be postmarked or faxed not later than **November 7, 2022**. If you submit a request for exclusion which is not postmarked or faxed **by November 7, 2022**, your request for exclusion will be rejected, and you will be included in the settlement class. If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released any of the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at **P.O. Box 7208, Orange, CA 92863**.

All objections must be received by the administrator by not later than **November 7, 2022**. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described in Option 2. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for **February 3, 2023 at 8:30** a.m. in the Superior Court of the State of California, for the County of San Diego and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, and the Court overrules (e.g., rejects) your objections, you will still be entitled to the money from the settlement and you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel/Defense Counsel.

CLASS COUNSEL Alex Asil Mashiri MASHIRI LAW FIRM, APC 11251 Rancho Carmel Drive #500694 San Diego, CA 92105 Phone: 858.348.4938	CLASS COUNSEL Tamim Jami THE JAMI LAW FIRM P.C. 3525 Del Mar Heights Rd #941 San Diego, CA 92130 Phone: 858.284.0248	DEFENSE COUNSEL Jeff Ames AMES KARANJIA LLP 2535 Truxtun Road, Suite 206 San Diego, CA 92106 Phone: 619.374.0205
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at (800) 523-5773