

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

**NOTICE OF OPPORTUNITY TO JOIN COLLECTIVE ACTION TO
DETERMINE YOUR RIGHT TO OVERTIME COMPENSATION UNDER
THE FAIR LABOR STANDARDS ACT**

If you are or were a Center of Recruiting Excellence (“CoRE) Recruiter employed by The Kroger Co. or Kroger GO, LLC (“Kroger”) at any time after October 30, 2014 to the present, a collective action lawsuit may affect your rights.

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

- Plaintiffs have sued The Kroger Co and Kroger GO, LLC. (“Kroger”) alleging that Kroger improperly failed to pay CoRE Recruiters overtime under the Fair Labor Standards Act (“FLSA”). Kroger denies Plaintiffs’ allegations and contends that all CoRE recruiters were and are properly classified as exempt from the FLSA’s overtime requirements.
- The Court has allowed the lawsuit to be conditionally certified as a collective action on behalf of all CoRE Recruiters employed by Kroger in Ohio at any time after October 30, 2014 through the present and who choose to participate in this action.
- The Court has not decided whether Kroger did anything wrong. Currently, there is not money available, nor is there a guarantee that money will become available. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
RETURN YOUR CONSENT FORM BEFORE NOVEMBER 10, 2016	Be part of this lawsuit. Await the outcome. By returning your Consent Form, you become a participant in this lawsuit. Therefore, you gain the possibility of getting money or benefits that may come from a trial or a settlement. But, you give up any rights to sue Kroger separately about the same legal claims in this lawsuit.
DO NOTHING	You will not be part of this lawsuit. Give up the possibility of getting money from a trial or settlement. If you do nothing and do not return your Consent Form, you will not be a participant in this lawsuit and if money or benefits are later obtained, you will not share in those. But, you keep any rights to sue Kroger separately about the same legal claims in this lawsuit, if you do so in the applicable statute of limitations.

- Your options are explained in this notice. To participate in this lawsuit and any money or benefits that may be obtained in this lawsuit, **you must sign and return the enclosed Consent Form before November 10, 2016.**
- If you return the enclosed Consent Form, and if money or benefits are obtained from Kroger, you will be notified about how to ask for a share.
- **Any questions? Read on and/or call (513) 533-6710.**

QUESTIONS? CALL (513) 533-6710

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QUESTIONS? CALL (513) 533-6710

BASIC INFORMATION

1. Why did I get this notice?

Kroger's records show that you currently work, or previously worked, for Kroger as a Recruiter at its Center of Recruiting Excellence (CoRE) in Blue Ash, Ohio. This notice explains that the Court has "conditionally certified" a collective action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. The trial is to decide whether the claims being made against Kroger, on your behalf, are correct. Judge Timothy S. Black of the United States District Court for the Southern District of Ohio is overseeing this collective action. The lawsuit is known as *Hardesty, et al. v. The Kroger Co., et al.* case number 1:16-cv-00298.

2. What is this lawsuit about?

This lawsuit is about whether Kroger failed to comply with Federal laws requiring the payment of overtime compensation for hours worked in excess of 40 hours in any workweek. More information about federal laws regarding overtime can be found at the website for the U.S. Department of Labor (www.dol.gov).

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

Similar to a class action, one or more people (in this case Joseph Hardesty, Madeline Hickey, Derek Chipman) sue on behalf of other people who have similar claims. However, unlike a class action in which you are automatically included, in a collective action you must file a written consent in order to be included in the lawsuit. Those people who file Consent Forms are called "Opt-In Plaintiffs." The company they sue (in this case The Kroger Co. and Kroger G.O. LLC) is called the "Defendant." One court resolves issues for everyone involved in the collective action.

More information about why the Court is allowing this lawsuit to be a collective action is in the Court's Order Conditionally Certifying the Class, which is available by calling (513) 533-6710.

4. Why is this lawsuit a collective action?

The Court has conditionally certified this lawsuit as a collective action, which means that this notice should be sent to all of those persons entitled to participate in this lawsuit. The Named Plaintiffs seek to sue on behalf of themselves and all others "similarly situated". The individuals that the Named Plaintiffs allege are similarly situated are those current and former CoRE Recruiters employed by Kroger at any time after October 30, 2014 to the present. This Notice is only for the purpose of determining the identity of those persons who wish to be involved in this case. Your right to participate in this suit may depend upon a later decision by the United States District Court that you and Named Plaintiffs are actually "similarly situated".

QUESTIONS? CALL (513) 533-6710

More information about why the Court is allowing this lawsuit to be a collective action is in the Court's Order Conditionally Certifying a Collective Action which is available by calling (513) 533-6710.

THE CLAIMS IN THE LAWSUIT

5. What does the lawsuit complain about?

In the lawsuit, the Plaintiffs claim that Kroger violated the federal Fair Labor Standards Act ("FLSA") by failing to provide overtime compensation to CoRE Recruiters who worked more than 40 hours in a workweek. Generally, the overtime provisions of the FLSA require that for all hours over forty hours per week that an employee works, the employer must compensate the employee at the rate of one and one-half times his or her regularly hourly rate (for those paid a salary, the salary is converted to an hourly rate for purposes of calculating overtime compensation), unless that employee is properly classified as "exempt" from the overtime provisions of the FLSA. The Named Plaintiffs in this lawsuit claim that CoRE Recruiters are not properly classified as exempt from the overtime provisions of the FLSA. For more information, you can obtain a copy of the Plaintiffs' Collective Action Complaint by calling (513) 533-6710.

6. How does Kroger Answer?

Kroger denies it did anything wrong and that the Plaintiffs and all CoRE Recruiters were properly classified as exempt from the overtime provisions of the FLSA. As a result, Kroger denies that it owes any unpaid overtime or anything else to the Plaintiffs or any other current or former CoRE Recruiters. You can obtain a copy of the Defendant's Answer to the Collective Action Complaint by calling (513) 533-6710.

7. Has the Court decided who is right?

The Court hasn't decided whether Kroger or the Plaintiffs are correct. By conditionally certifying 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 at a trial.

8. What are the Plaintiffs asking for?

The Plaintiffs are seeking money damages for unpaid overtime compensations for the period of October 31, 2014, through the time of the trial or settlement. The Plaintiffs are also seeking changes in Kroger's policies to ensure that collective action members are classified and compensated properly in the future.

QUESTIONS? CALL (513) 533-6710

9. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Kroger did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits ever will be obtained. If they are, you will be notified about how to ask for a share.

YOUR RIGHTS AND OPTIONS

10. What do I have to do in order to participate in the lawsuit?

Enclosed you will find the “Notice to Consent” (“Consent Form”). If you choose to join this lawsuit, and thus participate in any recovery that may result from this lawsuit, it **is extremely important that you read, sign and return the Consent Form**. The Consent Form is pre-addressed and postage paid for your convenience. Should the Consent Form be lost or misplaced, please contact counsel for Plaintiffs immediately at (513) 533-6710.

The signed Consent Form must be postmarked by November 10, 2016. **If your Consent Form is not postmarked by November 10, 2016, you will not participate in any recovery obtained against Defendant in this lawsuit.** If you have any questions about filling out or sending in the Consent Form, you may contact Plaintiffs’ counsel at (513) 533-6710.

11. What happens if I do nothing at all?

If you do nothing at all, and do not timely return a signed Consent Form you will not be a participant in the lawsuit. If you choose not to participate in this lawsuit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable. You will not be entitled to share any amounts recovered in the lawsuit. You will be free to file your own lawsuit, although you will have to hire and pay your own lawyer for that lawsuit and you will have to independently prove your claims. The pendency of this lawsuit will not stop the running of the statute of limitations as to any claims you may have.

12. Can Kroger retaliate against me for participating in this lawsuit?

It is a violation of federal law for Kroger to discriminate or retaliate against you in any manner for taking part in this case. If you believe that you have been penalized, discriminated against or disciplined in any way as a result of your receiving this notification, considering whether to join this lawsuit or actually joining this lawsuit, you may contact Class Counsel in this lawsuit or another lawyer of your choosing.

QUESTIONS? CALL (513) 533-6710

THE LAWYERS REPRESENTING THOSE WHO CHOOSE TO JOIN THIS LAWSUIT

13. Do I have a lawyer in this case?

If you choose to join this lawsuit, you will be represented by the law firm of Stagnaro, Saba & Patterson Co., LPA, of Cincinnati, Ohio. This law firm is called “Class Counsel.” More information about the law firm, its practice, and their lawyers’ experience is available at www.sspfirm.com.

18. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

19. How will the lawyers be paid?

If Class Counsel receive money or benefits for the Class, they may ask the Court for fees and expenses. If the Court grants Class Counsels’ request, the fees and expenses would be either deducted from any money obtained for the Class or paid separately by Kroger.

TRIAL

20. How and when will the Court decide who is right?

As long as the case isn’t resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs’ claims at a trial. The trial is not yet scheduled, but it will take place in the United States District Court for the Southern District of Ohio, 100 East Fifth Street, Cincinnati, Ohio 45202. During the trial, a Jury or the Judge will hear all of the evidence to help them reach a decision about whether the Plaintiffs or Defendant are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win, or that they will get any money for the Class.

21. Do I have to come to trial?

You do not need to attend the trial. Class Counsel will present the case for the Plaintiffs, and Kroger will present the defenses. You or your own lawyer are welcome to come at your own expense.

QUESTIONS? CALL (513) 533-6710

22. Will I get money after the trial?

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.

GETTING MORE INFORMATION

For further information you can speak to one of the lawyers by calling (513) 533-6710 or by writing to: Kroger FLSA Action, Stagnaro, Saba & Patterson Co., L.P.A., 2623 Erie Avenue, Cincinnati, Ohio 45208.

LIST OF CLASS COUNSEL

Mr. Peter A. Saba, Esq.
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