

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF NEW YORK**

**If you worked for Harry's Nurses Registry, Inc. or Harry Dorvilier as a registry nurse, field nurse or per diem nurse at any time since November 7, 2004, you may have the right to join a lawsuit.**

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

**TO ASK TO BE INCLUDED, YOU MUST ACT ON OR BEFORE JULY 15, 2009.**

- Employees have sued Harry's Nurses Registry, Inc. and Harry Dorvilier (referred to in this notice as "Harry's") for overtime pay. Harry's did not pay registry nurses (also called "field nurses" and "per diem nurses") time and a half for overtime. Harry's claimed that registry nurses were independent contractors.
- The Court has determined that registry nurses were employees entitled to be paid time and a half for overtime.
- If you worked for Harry's as a registry nurse at any time since November 7, 2004, and worked more than 40 hours in a single workweek, then you may claim your overtime pay by asking to be included in this lawsuit.
- The Court has allowed the lawsuit to proceed as a collective action on behalf of current and former registry nurses employed by Harry's at any time since November 7, 2004.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT**

<b>ASK TO BE INCLUDED</b>	<b>Join in this lawsuit. Await the outcome. Give up right to sue separately.</b>  By joining, you keep the possibility of getting money or benefits that may come from a trial or a settlement. But, you give up any rights to sue Harry's separately about the same legal claims in this lawsuit.
<b>DO NOTHING</b>	<b>Do nothing. Keep right to sue separately.</b>  If you do nothing and money or benefits are later awarded in this case, you won't share in those. But, you keep any rights to sue Harry's separately about the same legal claims in this lawsuit.

## **BASIC INFORMATION**

### **1. Why did I get this notice?**

Harry's records show that you currently work, or previously worked, for Harry's as a registry nurse, field nurse or per diem nurse.

This notice informs you of the existence of a collective action lawsuit in which you may become a member. It also explains what you need to do to participate and how your rights may be affected.

The lawsuit is known as Gayle, et al. v. Harry's Nurses Registry, Inc., Civil Action No. CV 07-4672. On March 9, 2009, the Honorable Charles P. Sifton, Senior Judge of the United States District Court for the Eastern District of New York, authorized the sending of this Notice to inform you of your rights to join this lawsuit.

### **2. What is a collective action and who is involved?**

In a collective action lawsuit, two or more people who have similar claims against an employer are permitted to assert those claims in a single lawsuit. The people who decide to participate in the lawsuit are called the plaintiffs. The employers they sued (in this case, Harry's) are called the defendants. One Court resolves the issues for everyone in the collective action—except for those people who choose not to join.

In this case, the Court has determined that Harry's registry nurses are entitled to be paid time and a half for their overtime hours.

### **3. What does the lawsuit complain about?**

In the lawsuit, the plaintiffs claim that Harry's had a practice of misclassifying registry nurses as "independent contractors." The plaintiffs allege that Harry's did not pay employees as required by law, and claim that they are owed unpaid overtime as a result, as well as additional damages that may be allowed by the law and attorneys' fees.

### **4. How does Harry's answer?**

Harry's has asserted that it exercised good faith in classifying registry nurses as "independent contractors" and applying the Fair Labor Standards Act ("FLSA") to their employees.

### **5. Has the Court decided who is right?**

The Court has decided that the plaintiffs are correct, that is, that Harry's registry nurses are entitled to be paid time and a half for their overtime hours under the FLSA.

Once people have had the chance to opt in, the Court will decide whether people who have opted in may participate in the case. Only people "similarly situated" to the plaintiffs may participate. To determine whether you are indeed a proper member of the case, Harry's will likely ask the Court to engage in a review of the circumstances of your employment.

## YOUR RIGHTS AND OPTIONS

### **6. How do I join?**

To participate in this lawsuit, you need to fill out the enclosed form and mail it in the enclosed self-addressed stamped envelope to the attorneys for the plaintiffs. It is entirely your own decision whether or not to join this lawsuit.

**You must return the form to the plaintiffs' attorneys by July 15, 2009 in order to join the lawsuit.**

If you fail to do so, you will not be allowed to participate in any recovery for the federal overtime claims in this lawsuit.

If you decide to join this suit, you will be bound by the settlement or judgment, whether it is favorable or not. If there is a favorable resolution, either by settlement or judgment, and you qualify, you will be entitled to some portion of the recovery.

### **7. What if I do nothing?**

If you do nothing, you will not participate in the collective action. You will not be bound by any decision in the federal suit regarding compensation for unpaid overtime. Therefore, you will not be entitled to any recovery should there be any for those claims.

You can also start your own lawsuit against Harry's. If you want to have a lawyer, you'll have to hire and pay your own lawyer for that lawsuit, and you'll have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Harry's, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

### **8. If I join, will there be any impact on my employment?**

Federal law prohibits Harry's from discouraging or in any way discriminating against you because you have exercised your rights under the Fair Labor Standards Act. Such conduct would be illegal and you are entitled to damages should a court determine Harry's took any action against you for joining this lawsuit.

### **9. Do I have to do anything to help out with the lawsuit once I join?**

The lawyers will handle most of the presentation of the case. From time to time, your lawyers will ask you for information and you would need to give that information to them. While this suit is proceeding, you may also be required to respond to written questions, sit for depositions, and/or testify in court. Regardless, if you are asked to give information, plaintiffs' counsel will work with you so that the process is as convenient for you as possible.

## THE LAWYERS REPRESENTING YOU

### 10. Do I have a lawyer in this case?

The law firm of Levy Davis & Maher, LLP is the counsel representing the plaintiffs who have already joined this action.

Unless you choose another lawyer, these attorneys would represent you in the action. You can contact the plaintiffs' attorneys at:

Jonathan A. Bernstein, Esq.  
LEVY DAVIS & MAHER, LLP  
29 Broadway  
New York, New York 10006  
(212) 371-0033  
(212) 371-0463 (fax)  
jbernstein@levydavis.com

### 11. Should I get my own lawyer?

You do not need to hire your own lawyer because Levy Davis & Maher, LLP is working on your behalf. You may hire a different lawyer if you wish to do so. You would be responsible for making the arrangements to hire that lawyer, including any fee arrangements. If you decide to have another attorney represent you, that attorney will need to draft a consent form for you which you should then mail to Levy Davis & Maher, LLP.

### 12. How will the lawyers be paid?

If the attorneys get money or benefits for the employees, they may ask the Court for fees and expenses. You won't have to pay these fees and expenses. If the Court grants the lawyers' request, the fees and expenses would be either deducted from any money obtained or paid separately by Harry's.

The attorneys' retainer agreement with the Plaintiffs is on file at the attorneys' office.

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.

Dated: April 3, 2009

By Order of the Court