

**IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON IN AND FOR KING COUNTY**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Sherri McFarland, an individual, on behalf of herself and all others similarly situated v. Evergreen Medical Center, a/k/a King County Public Hospital District No. 2, Case No. 16-2-27488-9 - SEA*

**If you are a Registered Nurse who worked at Evergreen in the Emergency, MedSurg, PACU, Home Hospice Care, CCU/Intensive Care Unit, or PCU Departments between May 1, 2011, and June 20, 2019, your rights may be affected by this class action settlement.**

*The Court authorized this notice. This is not a solicitation.*

**Your legal rights may be affected whether or not you act. Please read this notice carefully.**

Your Legal Rights and Options in this Proposed Settlement	
<b>DO NOTHING; RECEIVE A PAYMENT</b>	If you do nothing and the Court approves the settlement, you will be entitled to payment based on estimates of your missed or delayed rest breaks or meal periods while working at Evergreen, as described below. You will give up the right to sue about the issues being settled. See questions 5, 8, and 9, below.
<b>OBJECT TO THE SETTLEMENT</b>	If you think the settlement is not fair, you may write to the Court to object to the proposed settlement. See questions 11 and 12, below.
<b>GO TO THE HEARING</b>	You may ask to speak in Court about the fairness of the proposed settlement to the Class. The hearing is scheduled for April 4, 2025 at 10:30am at the King County Superior Court Regional Justice Center, Room 4C, 401 Fourth Avenue North, Kent 98032 , in the courtroom of Judge Nikole Hecklinger. Please note this is a fragrance-free courtroom. See questions 10 and 12, below. You are not required to attend this hearing to receive payment under the settlement.
<b>NO RIGHT TO EXCLUDE YOURSELF FROM THE CLASS</b>	You received a class notice in 2017 and/or 2022, which notified you of your right to opt out of the Class certified in this action and established a deadline for doing so. You no longer have the right to opt out of the Class. See question 11, below.

- This notice explains your rights and options, and the deadlines to exercise them.
- The Court has not made a decision whether to approve the settlement. Payments will be made according to the settlement if the Court approves the settlement and after any appeals from approval are resolved.
- An estimate of your share of the settlement as a Class Member appears on page 5 of this notice.
- You must notify the Settlement Administrator if your mailing address changes.
- **Questions?** Visit the settlement website at [www.cptgroupcaseinfo.com/EvergreenMedSettlement](http://www.cptgroupcaseinfo.com/EvergreenMedSettlement)

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

You received this notice because Evergreen's records show you worked as an RN at Evergreen in the Emergency, MedSurg, PACU, Home Hospice Care, CCU/Intensive Care Unit, or PCU Departments between May 1, 2011, and June 20, 2019. You should have received an earlier notice telling you about this lawsuit and offering you an opportunity to opt out of participating as a Class Member.

The Court ordered this notice to be sent to you because you have a right to know about a proposed settlement of this class action. This notice explains the lawsuit, the settlement, who is covered by the settlement, your rights and options, the benefits available under the settlement, and what you will give up to obtain those benefits.

### **2.     *What is this case about?***

Plaintiff in this lawsuit alleged that Evergreen violated Washington law by failing to provide legally adequate rest breaks and meal periods to its Registered Nurses in the Emergency, MedSurg, PACU, Home Hospice Care, CCU/ICU, and PCU departments, and by not paying for all missed and untimely rest breaks and meal periods. Further, Plaintiff alleges that Evergreen knew its RNs in these departments were not receiving adequate rest breaks and meal periods and its actions in failing to pay for missed and untimely rest breaks and meal periods were willful, entitling RNs to double damages.

Evergreen denied these allegations. Evergreen maintained that its RN employees were afforded appropriate rest breaks and meal periods and/or were paid for all reported missed rest breaks and meal periods.

The trial court judge ruled that Evergreen did not provide all legally required rest breaks and meal periods to RNs employed in the departments at issue, as required under various applicable Washington regulations, and did not compensate these RNs for all missed and untimely rest breaks and meal periods. The case eventually went to a trial for a jury to determine the amount of compensation due to Class Members. After trial, the Court entered a Judgment in favor of Plaintiff and the Class in the amount of \$17,782,273.00, including recoveries for (a) failing to provide Class members with a meal break for every five hours of work on 12-hour shifts (a "missed second meal break"); (b) missed rest breaks not provided consistent with Washington law (WAC 296- 126-092); (c) missed first meal periods not

provided consistent with Washington law (WAC 296-126-092); (d) late rest breaks not provided consistent with Washington law (WAC 296-126-092); (e) late meal periods not provided consistent with Washington law (WAC 296-126-092); (f) double damages on items (a), (b), and (c); and (g) prejudgment interest on items (a) – (d). The Court later entered a Supplemental Judgment awarding attorneys’ fees and costs to Class Counsel, as well as a service award to McFarland for her service as Class Representative.

Evergreen timely appealed to the Court of Appeals, seeking reversal of the Judgment and the Supplemental Judgment. The parties have completed their briefing on Evergreen’s appeal, which awaits oral argument. If Evergreen prevails in its appeal, portions of the judgment will be set aside in their entirety and other aspects of the case will be sent back to the trial court for a new trial.

### **3. *Why have the parties agreed to a settlement?***

The lawsuit has been pending since 2016. Evergreen’s appeal presents a material risk that the claims of the Class will be significantly limited and the remaining claims retried, which may result in a materially diminished recovery to the Class and will result in further years of delay before any payments to the Class. In light of these risks, Ms. McFarland, in her capacity as Class Representative, and her lawyers have concluded that this proposed settlement is in the best interests of the Class because it provides the certainty of a substantial recovery now while avoiding the risk, expense, and delay associated with Evergreen’s appeal and the possibility of continued litigation following that appeal.

**This settlement does *not* amount to a court determination of liability and/or damages in this case. Both sides have agreed to resolve the lawsuit on a Class basis, with no decision or admission of who is right or wrong.**

### **4. *Who is included in the Class settlement?***

The proposed Class Settlement covers all persons within the following Class certified by the Court:

- All RNs employed by Evergreen in its Emergency, MedSurg, PACU, Home Hospice Care, or CCU/Intensive Care Unit Departments who missed rest breaks or meal periods and who have not been paid for the missed rest break or meal period; whose meal period was interrupted and who were not able to resume their meal period or who have not been paid for the interrupted meal; who did not receive a rest break for every four hours of work; who did not receive a meal period within the first five hours of an 8-hour shift, or who did not receive two meal periods on a 12-hour shift from May 1, 2011 to June 20, 2019.
- All RNs employed by Evergreen in its PCU Department who missed rest breaks or meal periods and who have not been paid for the missed rest break or meal period; whose meal period was interrupted and who were not able to resume their meal period or who have not been paid for the interrupted meal; who did not receive a rest break for every four hours of work; who did not receive a meal period within the first five hours of an 8-hour shift; or who did not receive two meal periods on a 12-hour shift from May 1, 2011 to June 20, 2019.
- All RNs employed by Evergreen in its Emergency, MedSurg, PACU, Home Hospice Care, CCU/Intensive Care Unit, or PCU Departments who did not receive a meal period within the first five hours of their 12-hour shift from November 10, 2013 to June 20, 2019.

Evergreen's records indicate you are a Class Member and that you previously received notice of this Action and an opportunity to opt out of the Class. If you are a Class Member, you could receive money from the Class portion of the settlement.

**5. *What does the settlement provide?***

**If the Settlement Is Approved:**

- **Evergreen will make a total payment of \$16 million.** This will be used to pay Class Members, i.e., RNs within the Class definition set forth above, settlement administration and notice costs, an award to Ms. McFarland for her service as Class representative, attorneys' fees, and costs. This is the total sum to be paid by Evergreen; it will not owe anything more.
- **Most of the settlement will be used to pay Class members.** Payments to Class members will be based on estimates of each RNs' exposure to missed or untimely rest breaks and/or meal periods during the Class periods specified above. Question 8 explains the computation.
- **Litigation costs will be paid out of the settlement.** This includes the costs of giving notice to the class, administering the settlement, and a Court-approved award of attorneys' fees and expenses to Class Counsel, as well a service award to Ms. McFarland, up to the amounts described under question 6, below.

**6. *Who represents the Class and how will they be paid?***

The Court has appointed the following lawyers and law firm ("Class Counsel") to represent the Class:

BRESKIN, JOHNSON & TOWNSEND

Daniel F. Johnson

Cynthia J. Heidelberg

1000 Second Avenue, Suite 3670

Seattle, WA 98104

Telephone: (206) 652-8660

Fax: (206) 652-8290

Email: [classaction@bjtlegal.com](mailto:classaction@bjtlegal.com)

Class Counsel are working on your behalf as a member of the Class. If you want your own personal attorney, you may hire one at your own cost.

During the Class settlement approval process, Class Counsel will ask the Court for an award of no more than \$5,280,000 (33% of the settlement amount) as attorneys' fees and for reimbursement of litigation expenses in an amount of no more than \$275,000. The Court will decide how much to award to Class Counsel. Anything the Court awards to Class Counsel will be paid out of the \$16 million settlement amount.

Since the beginning of this litigation in September 2016, Class Counsel has pursued the case on a contingent basis and received no compensation for their services or reimbursement of their expenses. Class Counsel are requesting this award to compensate them for time and expenses incurred.

The Court has also appointed Ms. McFarland to be the Class Representative. Class Counsel will also ask for a service award of \$50,000 for Ms. McFarland for her service as representative and her efforts in prosecuting this case. Anything the Court awards to Ms. McFarland will be paid out of the settlement amount.

**7. *How much of the settlement will go to the Class?***

Evergreen will pay \$16,000,000 total under the settlement, assuming the Court approves it. From that sum, the following payments will be made before distributions to Class Members:

- **Costs of settlement administration.** These costs are paid to a professional Settlement Administrator to handle the settlement process, including delivery of this notice, payments to the class, issuing tax documents, responding to Class member questions, maintaining the settlement website, and similar tasks. The settlement sets administration costs at \$12,500.
- **Class Counsel's Fees and Expenses.** The Court will decide how much to award Class Counsel for attorneys' fees and litigation expenses. As explained above, the settlement provides that Class Counsel will request no more than \$5,280,000 in fees and no more than \$275,000 in litigation expenses.
- **Service Award to Ms. McFarland.** Class Counsel will ask the Court to award \$50,000 to compensate Ms. McFarland for her service representing the Class. The Court will decide what to award.

After deducting these payments (and assuming the Court awards Class Counsel's fees and costs and the Enhancement Award in the amounts requested), the estimated amount available for distribution to Class members will be \$10,382,500.00. The actual amount may wind up higher or lower, depending on how much the Court awards in response to Class Counsel's requests and any minor adjustments that may be required in the course of settlement administration.

**8. *How are Class members' payments computed and how much am I likely to receive?***

Class Members' shares of the settlement will be calculated and paid using a formula described in the parties' Settlement Agreement. The starting point for that formula is each Class Member's share of the Supplemental Judgment entered by the Court in favor of the Class, which Class Counsel's expert calculated based on Evergreen's time and pay records for each Class Member, and using estimates of the frequency that breaks were missed or interrupted in each department. Each Class Member's share of the Supplemental Judgment will then be reduced pro rata to reflect the amount available to the Class under the settlement. Each Class Member who qualifies for payment will receive a check for the Class Member's share based on this calculation, without having to assert a claim.

BASED ON THE ESTIMATED AMOUNT AVAILABLE FOR PAYMENTS TO THE CLASS UNDER THE SETTLEMENT, THE SETTLEMENT ADMINISTRATOR ESTIMATES YOUR SHARE OF THE CLASS SETTLEMENT WILL BE <<\$ESTAMNT>>.

Payment will be made by means of a check that will be mailed to you. Upon receipt of your individual settlement payment, you must cash it within 180 days. If any payments remain uncashed by the expiration of the 180-day period, the Settlement Administrator will provide the funds to the Washington Department of Revenue in the names of the individuals to whom the payments were payable, who may

request payment from the Washington Department of Revenue in accordance with Washington law.

**According to Evergreen’s records, your current mailing address is:**

<<FirstName>><<LastName>>

<<Address1>><<Address2>>

<<City>><<State>><<Zip>>

**If that address is incorrect or you move or change addresses after receiving this notice, you must contact the Settlement Administrator at 1-888-764-9332 to update your address. If you do not update your address, your payment may not reach you.**

The wage portion of your payment will be reported as required by law to the IRS on FORM W-2, and the non- wage portion will be reported to the IRS on FORM 1099. You are responsible for any federal, state, or local taxes that may be owed by you on your payment.

#### **9.      *What claims am I releasing as part of the settlement?***

In exchange for payment under the settlement, you will give up any right you may have to pursue or be part of any other lawsuit against Evergreen or parties related to Evergreen (the “Released Parties”) concerning claims relating in any way to RNs’ missed, delayed, or uncompensated rest breaks or meal periods on or before June 20, 2019 (the “Released Claims”), no matter what statute or legal principle those claims are brought under. The Released Claims include without limitation any such claims under the common law or any provision of Washington law (including without limitation under RCW 49.12.020 and WAC 296-126-092, RCW 49.46.090, RCW 49.46.130, RCW 49.52.060 and WAC 296-126-028, and RCW 49.52.050) and any such claims for exemplary or nominal damages, penalties, and interest, as well as attorneys’ fees and costs. The Released Claims and Released Parties are described more fully in Paragraph 5.01 of the Settlement Agreement, which you can read on the settlement website at [www.cptgroupcaseinfo.com/EvergreenMedSettlement](http://www.cptgroupcaseinfo.com/EvergreenMedSettlement).

The Released Claims do not, however, include any claim based on conduct occurring after the Class Period, or any claim arising as a result of the obligations imposed by this Agreement. The Class Members further covenant not to sue Evergreen or any other Released Party for any Released Claims.

#### **10.     *When would I get my payment?***

On April 4, 2025 at 10:30am, the Court will hold a hearing—called a “Fairness Hearing”— at the King County Superior Court Regional Justice Center, Room 4C, 401 Fourth Avenue North, Kent 98032, in the courtroom of the Honorable Nikole Hecklinger, to decide whether to approve the Settlement. If the Court approves the Settlement after the Fairness Hearing, it is anticipated that you would receive your payment within ninety days after approval.

If any Class Members appeal from the approval, however, it may take a year or more to resolve those appeals before any payments are distributed. Updates on the settlement status will be posted on the settlement website at [www.cptgroupcaseinfo.com/EvergreenMedSettlement](http://www.cptgroupcaseinfo.com/EvergreenMedSettlement). Please be patient.

The date and time of the Fairness Hearing may change without further notice to the class. You should periodically check the settlement website at [www.cptgroupcaseinfo.com/EvergreenMedSettlement](http://www.cptgroupcaseinfo.com/EvergreenMedSettlement) to confirm the date has not been changed.

## **11. What are my options?**

Because the time has passed for you to exclude yourself from the Class, you have two options in connection with settlement approval:

- **DO NOTHING:** You can choose to do nothing. If you do nothing and the Court approves the Settlement, you will receive a payment, as described above. You will give up your right to pursue the Released Claims, as explained in response to question 9, above.
- **OBJECT:** You may file an objection to the proposed Class settlement. The procedures for objecting are set forth below.

No matter what you do, you will be bound by the Court's decision on approval of the settlement.

## **12. How do I object to the Class settlement or the request for fees and expenses?**

If you oppose the Class settlement, you can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out, and Evergreen's appeal will continue. If that's what you want to happen, you should object.

You also have the right to object to Class Counsel's request for fees and expenses or to Ms. McFarland's request for a service award. These requests are described in response to question 6, above. More details and background about these requests will be filed with the Court and posted on the settlement website at [www.cptgroupcaseinfo.com/EvergreenMedSettlement](http://www.cptgroupcaseinfo.com/EvergreenMedSettlement) within forty-five days of this notice. You should check the website for updates on the filing of Class Counsel's request for fees and costs.

Any objection to the proposed settlement, or to the requested fees, expenses and enhancement award, must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Fairness Hearing on April 4, 2025, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Sherri McFarland v. Evergreen Hospital Medical Center*, Case No. 16-2- 27488-9 - SEA), (b) be submitted to the Court either by filing them electronically or in person at King County Superior Court in Seattle or by mailing them to the Clerk, King County Superior Court, 516 Third Avenue, Room C-203 Seattle, WA 98104, and (c) be filed or postmarked on or before **March 18, 2025**.

Any objection must also state your full name, address, and telephone number and the basis of your objection. The objection also should state whether you intend to appear in Court at the Fairness Hearing to argue your objection; indicate whether you intend to appear in person or through your lawyer; list the name, address, and telephone number of your lawyer, if you're appearing through a lawyer; identify any documents you or your lawyer intend to offer at the Fairness Hearing; and summarize the position to be presented at the hearing.

**13. How do I get more information?**

This notice provides only a summary of the proposed settlement. For more details, you can review the Settlement Agreement and other documents related to the settlement, which you may obtain from the Settlement Website, located at [www.cptgroupcaseinfo.com/EvergreenMedSettlement](http://www.cptgroupcaseinfo.com/EvergreenMedSettlement). You can also get more information by calling the Settlement Administrator toll free at 1-888-764-9332. If you contact the Settlement Administrator, please refer to the Evergreen Class Action Settlement. You may also contact Class Counsel, whose contact information is listed above. ***Please do not contact Evergreen or Evergreen's counsel regarding any questions you have about the settlement.***

In addition to being available through the Settlement Administrator, the Settlement Agreement and all other pleadings and papers filed in the lawsuit, including the full Settlement Agreement, are available for inspection and copying during regular business hours at the office of the Clerk of the Court at 516 Third Avenue, Seattle, WA 98104 between 9:00 a.m. and 4:00 p.m.

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE WITH QUESTIONS ABOUT THIS SETTLEMENT.**