

[Sample Letter 2–Opt-in Plaintiff Not Receiving Payment]

Kevin Faile et al. v. Lancaster County, South Carolina

Civil Action No. 0:10-cv-2809-CMC
(Lancaster County EMS Overtime Case)

To: [Name]
From: David E. Rothstein, Attorney for Plaintiffs
Date: January ____, 2012
Re: Proposed Class Action Settlement

The named parties have agreed to a settlement of the above-titled lawsuit. This settlement and the proposed plan for distributing/apportioning the settlement proceeds are, however, subject to court approval. The purpose of this letter and the accompanying documents is to notify you of the proposed settlement and your rights under it (if any), and to explain how you may comment on or object to the settlement or plan of distribution/apportionment.

You previously submitted a Consent to Join Lawsuit form in this case, whereby you opted to join this action to pursue claims under the Fair Labor Standards Act (“FLSA” or “Federal Claim”). You are also a member of a class pursuing state-law claims under the South Carolina Payment of Wages Act (“State Claim”), because you did not opt out of the State Law Claim. Your claims under these acts will be resolved (and released) by this settlement.

READ THE ENCLOSED NOTICE CAREFULLY– THIS IS ONLY A SUMMARY

Under the settlement, the County will, in addition to paying some other expenses, pay \$1.5 million into a settlement fund, which Plaintiffs’ steering committee and counsel propose should be allocated as follows: \$500,000 to attorney’s fees, \$35,000 to litigation costs, \$67,500 to incentive/service payments to the named Plaintiffs and steering committee members for their assistance in advancing the case, and \$897,500 to payment of individual claims.

Our review of the Lancaster County Payroll Records and the schedules and work records of the Lancaster County EMS Department indicates that you do not have a claim for additional compensation under the FLSA or the South Carolina Payment of Wages Act between October 29, 2007 and October 29, 2010, for one or more of the following reasons: (1) the County’s records reflect that you did not work more than 40 hours in any work weeks during the relevant time; (2) you were paid properly for all overtime hours worked; or (3) you have already received payment from the County equal to or in excess of the value of your claim as calculated by our experts prior to filing your Consent form to join this action. Accordingly, you will not receive any payment under the proposed settlement of the class action lawsuit.

Fairness Hearing and Important Deadlines. The proposed settlement and allocation plan will be reviewed by the United States District Court at a fairness hearing on **March 8, 2012**. However, any comments on or objections to the settlement and proposed allocation plan,

appearances of counsel, or requests to be heard at the fairness hearing must be filed with the Court by **February 27, 2012**. Section 6 of the attached Notice explains in detail your rights and obligations if you wish to comment on or object to the settlement or any aspect of the allocation. Additional information relating to this case and settlement can be found on the Internet at www.rothsteinlawfirm.com.

You do not need to do anything if you do not want to comment, object, file an appearance, or speak at the fairness hearing.

IMPORTANT DATES

- February 27, 2012** – **Deadline for filing objections, comments, appearances, and requests to be heard**

- March 8, 2012** – **Fairness Hearing** (at 1:30 p.m. in the Matthew J. Perry, Jr., Federal Courthouse, 901 Richland St., Columbia, SC 29201, in Courtroom II)