

If You Were Employed As A Corrections Officer I Or Corrections Officer II By The Department Of Corrections Of The State Of Missouri At Any Time From August 14, 2007 To The Present Date, You May Be Entitled to a Payment and Compensation from a Class Action Settlement.

PLEASE READ THIS CLASS ACTION NOTICE CAREFULLY.

THE COURT AUTHORIZED THIS NOTICE.

IT IS NOT A SOLICITATION FROM A LAWYER.

YOU ARE NOT BEING SUED.

You may have already received previous Notices about this class action case, in Notices approved by the Court, in or about October of 2015, September of 2018 and February of 2022. This is another Notice about additional proceedings in the same case.

- A Settlement has been reached in a class action lawsuit about whether the Missouri Department of Corrections (“MDOC”) does not pay straight-time or overtime wages for pre- and post-shift activities. Plaintiffs claim that Corrections Officer I and Corrections Officer II employees (now referred to as Correctional Officer and Correctional Sergeant) are required to perform before and after every shift. Plaintiffs are requesting the MDOC pay all class members for those pre- and post-shift activities. MDOC denies the allegations in the lawsuit.
- The Settlement covers the time period from August 14, 2007 to [30 days after preliminary approval].
- The Settlement offers eligible Certified Settlement Class Members cash payments and additional future compensation as set forth below.
- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

	Your Legal Rights and Options
RECEIVE A DISTRIBUTION	The Claims Administrator will make initial distributions to Settlement Class Members. You may thereafter submit a Claim Form challenging or seeking reconsideration of that initial cash payment.
GOING FORWARD	Defendant MDOC will compensate current and future Correction Officer I and II’s an additional 15 minutes per shift (not to exceed 15 minutes in any 24-hour period) beginning July 1, 2022 for 8 years through June 30, 2030 for pre- and post-shift activity. This time will be applied on the employees next regular pay cycle and if that

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXX.com
Si desea recibir esta notificación en español, llámenos o visite nuestra página web.

WAGE INCREASE	compensation constitutes overtime under Defendant MDOC's compensation policy for that officer, the payment will be at time and a half.
EXCLUDE YOURSELF	Request to be excluded and get no benefits from the Settlement. This is the only option that allows you to start or continue your own lawsuit against the Defendant for the claims at issue in the Settlement to the extent they aren't barred by applicable law or a prior Court ruling.
OBJECT	Write to the Court about why you do not like the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	You may receive a cash payment and may receive the additional future compensation. Give up any rights you might have to sue the Defendant about the claims resolved by the Settlement.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. If it does, and after any appeals are resolved, the Claims Administrator will make an initial distribution of cash payments, after which class members can seek reconsideration of their payment by submitting a claim form. Please be patient.

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXXXX.com

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QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXXXX.com

BASIC INFORMATION

1. Why is there a notice?

The Court authorized this Notice because you have a right to know about a proposed Settlement in a class action lawsuit, pending in Cole County Circuit Court, 19th Judicial Circuit, entitled *Hootselle, et al. v. MDOC*, Case No. 12AC-CC00518-01, and about all of your options, before the Court decides whether to give final approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Cotton Walker is overseeing this case. The person who sued is called the “Plaintiff.” The “Defendant” is the Missouri Department of Corrections (“MDOC”). The lawsuit alleges that the Defendant does not pay straight-time or overtime wages for pre- and post-shift activities Plaintiffs claim that Corrections Officer I and II employees are required to perform before and after every shift. The lawsuit seeks damages on behalf of the named Plaintiffs and a proposed class of all Corrections Officers I and II who were not paid for the pre- and post-shift activities they performed.

Plaintiffs’ Petition contains multiple counts. In Count III, Plaintiffs seek damages for the MDOC’s alleged breach of contract in not paying wages for work performed. In Count IV, Plaintiffs seek damages for MDOC’s alleged unjust enrichment for pre- and post-shift activities completed by Corrections Officer I and II employees that Plaintiffs allege was not paid. In Count V, Plaintiffs seek relief in quantum meruit for pre- and post-shift activities completed by Corrections Officer I and II employees. Counts I and II have been previously dismissed by the Court.

MDOC denies that the pre- and post-shift activities identified by Plaintiffs are compensable and that it must compensate employees for time spent performing those activities. It raises several affirmative defenses, including that the time spent on such activities is small, or de minimis, and that the activities are pre- or post-work activities that are not compensable under applicable law.

As explained further below, you may:

- get a cash payment from the Claims Administrator, after which you may seek reconsideration of that payment by filing a valid Claim Form;
- be eligible for additional future compensation;
- object to the Settlement; or
- request exclusion from the Settlement.

The Plaintiff’s Complaint, the Settlement Agreement, and other case-related documents are posted on the website www.XXXXXXXXXX.com. The Settlement resolves the claims against MDOC in the lawsuit.

2. What is the lawsuit about?

On August 14, 2012, this class action was brought against the MDOC by Plaintiffs Thomas Hootselle, Jr., Daniel Dicus and Oliver Huff, individually and as representatives of all persons who have been employed as Corrections Officers I or Corrections Officers II at any time from August 14, 2007 to present for claims involving unpaid straight-time compensation and anytime from August 14, 2010 to present for claims involving unpaid overtime compensation.

Plaintiffs’ Petition alleges that the MDOC does not pay straight-time or overtime wages for pre- and post-shift activities Plaintiffs claim that Correction I and II employees are required to

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perform before and after every shift. Plaintiffs are requesting the MDOC compensate all class members for those pre- and post-shift activities.

3. Which MDOC facilities are the subject of the lawsuit?

Plaintiffs allege that the failure to pay Corrections Officers I and II for pre- and post-shift activity covered all prisons operated by the MDOC from August 14, 2007 to the present. If you received a Notice, you are likely included in the Settlement because MDOC's records have identified you as a person who was employed as a Corrections Officer I or II.

4. Why is this a class action?

In a class action, one or more people called "Class Representatives" sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a "Settlement Class." Here, Plaintiffs Thomas Hootselle, Jr., Oliver Huff and Daniel Dicus are the Class Representatives for the Settlement.

5. Why is There a Settlement?

The Court has not decided wholly in favor of the Plaintiff or Defendant. Instead, Plaintiff and Defendant have agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Court, Settlement Class Members will receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that the Defendant did anything wrong. The Defendant denies all legal claims in this case. Plaintiffs and their lawyers think the proposed Settlement is best for everyone who is affected.

WHO IS PART OF THE SETTLEMENT

6. Who is included in the Settlement?

If you received a Notice by email or mail you are likely a Settlement Class Member.

The Settlement includes all Corrections Officers I and II employed by MDOC between August 14, 2007 and [30 days after Preliminary Approval], except as otherwise specified. The Settlement Class consists of:

- Any All Persons Employed in Positions As Corrections Officer I Or Corrections Officer II By The Department of Corrections of the State of Missouri At Any Time from August 14, 2007 to the Present Date for Claims Relating to Unpaid Straight-Time Compensation and From August 14, 2010 to the Present Date for Unpaid Overtime Compensation.

Note that the Defendant MDOC defines these two classes of employees as "Correctional Officer" and "Correctional Sergeant".

Excluded from the Settlement Class are: (1) senior executives of Defendant, including their current and former directors, and counsel; (2) the judge to whom this case is or was assigned, any member of the judge's immediate family; (3) any member of the judge's staff; and (4) any Certified Settlement Class Member who files a valid request for exclusion.

7. What if I am not sure whether I am included in the Settlement?

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXXXX.com

If you are still not sure whether you are in the Settlement Class or have any other questions about the Settlement, visit the settlement website at www.XXXXXXXXXXX.com or call the toll-free number, 1- [REDACTED].

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

The benefits provided by the Settlement is as follows:

- Defendant MDOC will contribute to a fixed-fund settlement the total amount of \$49.5 Million (the “Settlement Fund”) to be appropriated in the 2022 Legislative Session of the 101st General Assembly and paid within 120 days of signature of the Appropriations bill by the Governor. The Claims Administrator will make initial cash payments from the Settlement Fund to class members, pursuant to a Court-approved Plan of Allocation, who can thereafter seek reconsideration of the amount of the payment by filing a claim form.
- Defendant MDOC will compensate current and future correction officer I and II’s an additional 15 minutes per shift (not to exceed 15 minutes in any 24-hour period) beginning July 1, 2022 for 8 years through June 30, 2030 for pre- and post-shift activity. This time will be applied on the employees next regular pay cycle and if that compensation constitutes overtime under Defendant MDOC’s compensation policy for that officer, the compensation will be at time and a half.

9. How can I challenge the initial payment that I receive?

If you qualify for a cash payment under the Settlement, and you wish to challenge the amount of that payment, you must complete and submit a valid Claim Form. You can file your Claim Form online at www.XXXXXXXXXXX.com. The deadline to file a claim online is **11:59 p.m. PST on [REDACTED]**.

You may also file your Claim Form via regular mail. Claim Forms submitted by mail must be **postmarked** on or before [REDACTED] to:

Missouri Corrections Officers Settlement Administrator
PO Box [REDACTED]
XXXXXXXXXXXX, XX XXXXX

No matter which method you choose to file your Claim Form, please read the Claim Form carefully and provide all the information required. Only one Claim Form per Settlement Class Member may be submitted.

10. When will I receive my payment?

Payments to valid Certified Settlement Class Members will be made only after the Court grants “final approval” to the Settlement and after any appeals are resolved (*see* “The Court’s Final Approval Hearing” below). If there are appeals, resolving them can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXXXX.com

If you do not want benefits from the Settlement, and you want to keep any rights you might have to sue MDOC about the issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself or “opting out” of the Certified Settlement Class.

11. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter or other written document by mail to:

Missouri Corrections Officers Settlement Administrator

PO Box [REDACTED]

XXXXXXXXXXXX, XX XXXXX

Your request to be excluded must be personally signed by you and contain a statement that indicates your desire to be excluded from the Certified Settlement Class. The Court has held that any request for exclusion must be postmarked on or before the deadline for exclusions, must comply with the requirements set forth in the Settlement Agreement and must (1) be in writing and state the name, address, and phone number of the person seeking exclusion; (2) certify that the signee was employed by the MDOC, along with the beginning and end dates of that employment; and (3) identify the MDOC facility or facilities at which the person was employed.

Your exclusion request must be postmarked no later than [REDACTED]. You cannot ask to be excluded on the phone, by email, or at the website.

12. If I do not exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself from the Settlement, you give up any right you might have to sue MDOC for legal claims that the Settlement resolves. If you start your own lawsuit, you will have to hire your own lawyer, and you will have to prove your claims.

13. What am I giving up to stay in the Certified Settlement Class?

Unless you exclude yourself from the Settlement, you cannot sue or be part of any other lawsuit against MDOC about the issues in this case, including any existing litigation, arbitration, or proceeding. Unless you exclude yourself, all of the decisions and judgments by the Court will bind you. If you file a Claim Form or do nothing at all, you will be releasing Defendant from all of the claims described and identified in Section _____ of the Settlement Agreement.

The Settlement Agreement is available at www.XXXXXXXXXX.com. The Settlement Agreement provides more detail regarding the release and describes the released claims, so read it carefully. You can talk to the law firms representing the Class listed in Question 15 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

14. If I exclude myself, can I still get a payment?

No. You will not get a payment if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in the case?

The Court has appointed the following lawyers as “Class Counsel” to represent all members of the Certified Settlement Class.

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXXXX.com

Gary K. Burger Burger Law LLC 500 North Broadway Suite 1860 St. Louis, MO 63102	Michael J. Flannery Cuneo Gilbert & LaDuca LLP 500 North Broadway, Suite 1450 St. Louis, MO 63102
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You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

16. How will the lawyers be paid?

Class Counsel intend to request up to one-third of the value of the \$49.5 Million Settlement for attorneys’ fees, plus reimbursement of reasonable, actual out-of-pocket expenses incurred in the litigation. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will decide the amount of fees and expenses to award. Class Counsel intend to request, and the MDOC has agree to pay, a yearly attorney fee award for 8 years into the future to compensate the lawyers for the 15 minute per shift additional payment into the future.

Class Counsel will also request that a Service Award of \$25,000 be paid from the Settlement Fund to the three individual Class Representatives for their service as representatives on behalf of the whole Settlement Class.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I do not like the Settlement?

If you are a Settlement Class Member (and do not exclude yourself from the Certified Settlement Class), you can object to any part of the Settlement. You can object even if you also submit a claim for benefits under the Settlement. To object, you must submit a letter or other written document that includes the following:

- 1) A heading that includes the case name and case number: *Hootselle, et al. v. MDOC*, Case No. 12AC-CC00518-01;
- 2) Your name, address, telephone number, and if represented by counsel, the name, bar number, address, and telephone number of your counsel;
- 3) A signed declaration stating, under penalty of perjury, that you are a member of the Certified Settlement Class;
- 4) A statement of all your objections to the Settlement, including your legal and factual basis for each objection; and
- 5) A statement of whether you intend to appear at the Final Approval Hearing, either with or without counsel, and if with counsel, the name, bar number, address, and telephone number of your counsel who will attend.

The settling Parties will have the right to obtain document discovery and take depositions relevant to your Objection. Any Certified Settlement Class Member who has timely filed an Objection and indicated an intent to appear, may appear at the Final Approval Hearing, either in person or through an attorney hired at the Certified Settlement Class Member’s own expense, to object to the fairness, reasonableness, or adequacy of the Settlement.

You must file your Objection with the Court (using the Court’s electronic filing system or in any manner in which the Court accepts filings) so that your Objection is **received** by **XXXXXX, XX, 2022**. You must also mail your Objection to each of the following three (3) addresses, and your Objection must be postmarked by **XXXXXX**:

MDOC COUNSEL
Denise McElvein Deborah Bell Yates Missouri Attorney General’s Office 815 Olive Street, Suite 200, St. Louis, MO 63101

CLASS COUNSEL	
Gary K. Burger Burger Law LLC 500 North Broadway Suite 1860 St. Louis, MO 63102	Michael Flannery Cuneo Gilbert & LaDuca LLP 500 North Broadway, Suite 1450 St. Louis, MO 63102

18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement. You can object to the Settlement only if you do not exclude yourself from it. If you exclude yourself, you have no basis to object to the Settlement because you will not be part of the settling class.

THE COURT’S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses (“Final Approval Hearing”).

19. When and where will the Court decide whether to approve the Settlement?

The Court has scheduled a Final Approval Hearing for the Settlement to occur on **XXXXXXXXX, 2022** at **10:00 a.m.** in the Circuit Court of Cole County, Missouri, 19th Judicial Circuit, 301 East High Street, Jefferson City, MO 65101. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.XXXXXXXX.com for updates. At the Final Approval Hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate, rule on Objections to the Settlement, determine whether the attorneys’ fees and costs award and the service award to the Class Representative should be approved, and determine whether a Judgment finally approving the Settlement should be entered. It is unknown how long these decisions will take.

20. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to attend the hearing at your own expense. If you file an Objection, you do not have to attend the Final Approval Hearing to talk about it. As long as you filed your written Objection on time, mailed it to

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXX.com

the proper addresses, and it complies with the other requirements set forth above, the Court will consider it. You may also pay your own lawyer to attend the hearing, but it is not necessary.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, your filed Objection must include a statement that you intend to appear at the Final Approval Hearing (*See* Question 17 above).

You cannot speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you are a member of the Certified Settlement Class and do nothing, you will be bound by the judgment entered by the Court on the Settlement. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against the Defendant about the statements and claims at issue in this case. If you do nothing, you may still receive the initial cash payment and the going-forward wage increase from the Settlement, as stated in the response to Question 8, above.

GETTING MORE INFORMATION

23. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement's terms, refer to the Settlement Agreement at www.XXXXXXXXXX.com. You may also write with questions to the Settlement Administrator at Missouri Corrections Officers Settlement Administrator, PO Box [REDACTED], XXXXXXX, XX XXXXX, or call the toll-free number, 1-XXX-XXX-XXXX.

QUESTIONS? CALL 1-XXX-XXX-XXXX OR VISIT www.XXXXXXXXXX.com