

FSMI SETTLEMENT ADMINISTRATOR  
C/O RUST CONSULTING INC - 5529  
PO BOX 2396  
FARIBAULT MN 55021-9096

**IMPORTANT LEGAL MATERIALS**



<<Name 1>>  
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<<Address 1>>  
<<Address 2>>  
<<City>> <<State>> <<Zip 10>>  
<<CountryName>>

**FOR OFFICIAL USE ONLY**  
  
12

If the pre-printed information to the left is not correct or if there is no pre-printed information, please check the box and complete the information below:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_ Zip Code: \_\_\_\_\_

**Change of Address Form**

Pursuant to Section IV of the Notice, I hereby wish to change the mailing address on record for the remainder of this matter. For the remainder of this action, including for the mailing of any payment or further notices, I request that the Settlement Administrator use the following address for re:

Name of Class Member (print): \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Phone: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Last 4 Digits of Social Security Number/Tax Identification Number: \_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

Signature: \_\_\_\_\_

For purposes of verification only, I started working for FSMI in: \_\_\_\_\_, \_\_\_\_\_  
MONTH YEAR

PLEASE RETURN THIS FORM VIA UNITED STATES MAIL TO:

**FSMI SETTLEMENT ADMINISTRATOR  
C/O RUST CONSULTING INC - 5529  
PO BOX 2396  
FARIBAULT MN 55021-9096**

**NOTE: FORMS MUST BE RECEIVED NO LATER THAN APRIL 3, 2017, IN ORDER TO BE VALID AND EFFECTIVE.**





**NOTICE TO CLASS MEMBERS RE: PENDENCY OF A CLASS ACTION AND NOTICE OF HEARING ON PROPOSED SETTLEMENT. THIS NOTICE MAY AFFECT YOUR RIGHTS.**

**PLEASE READ IT CAREFULLY.**

*Thomas et al. v. Sonoma Mission Inn Management Company, LLC,*  
**Sonoma County Superior Court Case No. SCV 257470**

**PLEASE READ THIS NOTICE CAREFULLY.**

**THIS NOTICE COULD AFFECT YOUR LEGAL RIGHTS.**

**YOU MAY BE ENTITLED TO MONEY FROM THIS SETTLEMENT.**

**THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.**

**YOU HAVE NOT BEEN SUED.**

**YOU ARE NOT REQUIRED TO APPEAR IN COURT IN RESPONSE TO THIS NOTICE.**

**IF YOU WISH TO PARTICIPATE IN THIS SETTLEMENT OF THE CLASS ACTION, YOU DO NOT NEED TO DO ANYTHING, AND YOUR SHARE OF THE SETTLEMENT FUNDS WILL BE MAILED TO YOU FOLLOWING FINAL COURT APPROVAL OF THE SETTLEMENT.**

**PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK REGARDING THIS MATTER.**

**THE FOLLOWING RECITATION DOES NOT CONSTITUTE THE FINDINGS OF THE COURT. IT SHOULD NOT BE UNDERSTOOD TO BE AN EXPRESSION OF THE COURT'S VIEWS ON THE MERITS OF ANY CLAIM OR DEFENSE RAISED BY THE PARTIES.**

## **I. INTRODUCTION AND SUMMARY**

This is to notify you of a claim filed on July 22, 2015 by Plaintiffs LaNessa Thomas, Lisa Shiga, and David Prete against their employer Sonoma Mission Inn Management Company, LLC ("FSMI"). These Plaintiffs worked for FSMI as spa treatment providers ("STP") at the Fairmont Sonoma Mission Inn in Sonoma, CA, and they primarily claim that the company among other things, did not always properly provide them with rest and meal periods as required by California law and as a result did not pay them wages for all hours worked, did not timely pay them all wages due at termination, and did not provide them with sufficient statements of their wages. Plaintiffs have filed this action as a proposed class and representative action and seek to pursue similar claims on behalf of other current and former spa treatment providers (massage, salon, and facial/esthetician) employees who performed work for FSMI at the Fairmont Sonoma Mission Inn at any time during the period May 12, 2011 through May 18, 2015 (the "Class Period"). FSMI has not admitted to any liability, and has denied all liability, but has agreed to resolve this matter to avoid the further expense and disruption of litigation pursuant to the procedure set forth in this notice.

The purpose of this Notice is to inform you of the pending settlement agreement and your rights under it. You have received this Notice because you are one of the STP employees employed by FSMI during the Class Period and, unless you opt out, will be deemed part of the class here. This Notice will provide instructions on the options available to you – in particular, it will explain how you can opt out of the settlement altogether, take no action and be deemed a member of the settlement class and sent a settlement payment, and/or take other actions. If you take no action, you will be subject to this agreement and the associated judgment (and the associated release), and you will be sent your allocated settlement payment.

Please review this Notice and consider the options outlined herein carefully.

## **II. CLASS COUNSEL**

Plaintiffs and the Settlement Class are represented by attorneys at the law firm of Hoyer & Hicks, whose contact information is:

Richard A. Hoyer  
Ryan L. Hicks  
Hoyer & Hicks  
4 Embarcadero Center, Suite 1400  
San Francisco, California 94111  
415.766.3539  
www.hoyerlaw.com

If you choose to remain a Member of the Settlement Class, you will be represented by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **III. CERTIFICATION AND HEARING THEREON**

On or about January 13, 2017, pursuant to the procedures for the approval of class actions and California Rule of Court 3.769, the Court granted preliminary approval for the settlement of this matter as a class action and scheduled a hearing on final approval for May 3, 2017, at 3:00 p.m.. This hearing will take place at Courtroom 18 of the Sonoma County Superior Court, located at 3055 Cleveland Avenue, Santa Rosa, CA 95403. Members of the Class, including you, can express their views on the settlement at or before this hearing, but you are not required to do so, nor are you required to attend this hearing to exercise any of your rights, including either the right to remain a class member and receive payment or the right to opt out of this action. Members of the Class can exercise either these options by following the instructions contained in this Notice; again, no appearance by you at the hearing is required.

In addition to scheduling this hearing, the Court approved this Notice and approved the parties' request to mail this Notice to all Members of the Class. This conditional certification order does not reflect the Court's opinion on the merits of any claim or defense raised by the parties.

### **IV. THE PEOPLE RECEIVING THIS NOTICE AND ADDRESS CHANGES**

Plaintiffs Thomas, Shiga, and Prete have brought this action as a class and representative action. In class and representative actions, one or more persons bring claims on behalf of themselves and others who are allegedly in similar situations or have similar claims. In order to ensure that all Class Members are given an adequate opportunity to protect their rights, this Notice is being mailed to the last known addresses of all people identified as Class Members, and address verification measures have been taken. If, for any future reference or mailings, the recipient of this Notice, *i.e.*, you, wish to change the name or address listed on the envelope in which this Notice was sent, please provide that information on the Change of Address Form attached to this Notice as Form A.

### **V. DESCRIPTION OF THE LAWSUIT**

Plaintiffs Thomas, Shiga, and Prete filed a claim on behalf of themselves and others allegedly similarly situated alleging that FSMI did not properly provide rest and meal periods to its hourly STP employees at the Fairmont Sonoma Mission Inn as required by state law during the period relevant to this suit. Plaintiffs have also alleged that as a result of the missed meal and rest periods, FSMI failed to pay wages to its STP employees for all hours worked as a result, failed to pay wages timely, and failed to provide hourly STP employees with accurate statements of wages earned.

FSMI values its reputation as a responsible company and employer. Upon learning of Plaintiffs' allegations, they voluntarily commenced efforts to review the claims. FSMI has chosen to work with Plaintiffs and their counsel to resolve this matter and address any doubt with regard to these issues. Accordingly, and subject to court approval, the parties have entered a settlement agreement that provides for the certification of a class consisting of current and former hourly STP employees who worked for FSMI during the period from May 12, 2011 through May 18, 2015, the date that FSMI began inserting 15-minute dedicated rest periods into STP schedules.

### **VI. KEY TERMS OF THE PROPOSED SETTLEMENT**

Plaintiffs and the company have voluntarily entered into this settlement agreement. Through this settlement, neither FSMI nor any of its affiliates or employees have admitted any liability or wrongdoing. The total maximum amount of the Settlement is nine-hundred ninety-five thousand dollars, and this amount, less the amounts awarded by the Court for attorneys' fees and costs, the enhancement to Plaintiffs, the Settlement Administrator's costs, and payment amount to the California Labor and Workforce Development Agency, will be available for distribution among the class members who do not opt out of the settlement.

Subject to final approval by the Court, the attorneys for Plaintiffs and the Class (herein "Class Counsel") will be paid a sum sufficient to compensate them for their services in this matter. The company will pay this combined and total sum, which will at most be \$331,666.67 for Plaintiffs' attorneys' fees and up to \$15,000 in taxable litigation costs. Class Members will not be required to compensate Class Counsel.

In addition to the payments to Class Counsel, each of the three named plaintiffs may receive a court-approved payment beyond what each would receive as a claimant in this action. This payment will be in the amount of up to \$10,000 for each plaintiff, and it will be in compensation for each plaintiff's role as a named plaintiff prosecuting this class action lawsuit on the behalf of all Class Members, and also in exchange for a total, general release. Class Members will not be responsible for this payment – it will come from the settlement fund.

A full copy of the settlement agreement and other public documents filed with the Court with regard to this matter can be inspected and copied in the Office of the Court Clerk. The Office of the Clerk is located at the California Superior Court for Sonoma County, located at 600 Administration Drive, Room 107J, Santa Rosa, CA 95403. Please see Section IX of this

Notice for further details. During the pendency of the notice period, you can also view copies of the key filings in this case on Class Counsel's website at the [www.hoyerlaw.com/FSMI-settlement-information.php](http://www.hoyerlaw.com/FSMI-settlement-information.php)

Each Class Member who does not opt out of the settlement will receive a payment in an amount determined by the amount of hours he or she worked as a STP employee for FSMI during the class period. Company records demonstrate that during the pertinent period, you worked <<TotalHours>> which constitutes <<PercentageShare>> % of the total hours worked by STPs during the class period, and if the Court approves the settlement you will receive <<PercentageShare>> % of the total settlement proceeds distributed to participating class members, which is estimated to be at least \$ <<EstimatedAward>>.

A portion of this payment will be subject to required wage withholdings and deductions, and so the net payable amount will be less than the gross amount of the settlement sum. Specifically, the company will report one-third of this payment to relevant government entities as a wage payment, and the remaining two-thirds as a non-wage payment. The company reserves the right to make any required withholdings or deductions as required by applicable law, and the company will report any payments made pursuant to this agreement to the Internal Revenue Service and other relevant government entities (if any) as required by law.

If you believe that the information regarding your hours worked is incorrect, you must explain your disagreement in writing signed under penalty of perjury, and mail it along with any documentation relating to your disagreement to the Settlement Administrator at the address provided below. For your explanation and documentation to be considered, they must be postmarked by **April 3, 2017**. The parties will review such disputes and attempt to resolve them without court involvement. Please keep in mind that only hours worked during the pertinent period and in the pertinent STP positions count. Hours worked outside the period or in other positions do not count, and so this is not a situation in which any hours worked for FSMI are qualifying. Please also be advised that the submission of such a dispute could delay processing of your settlement payment.

Class Members will be responsible for any taxes on any payments made pursuant to this settlement. Neither the Class Representatives, Class Counsel, nor FSMI makes any representations concerning the tax consequences of this settlement or your participation in it, and you may seek tax advice from a tax professional at your own expense in association with your response to this notice.

Only those individuals who remain Members of the Class will be eligible to participate in this settlement and receive payment under this agreement. All individuals who do not opt out will be subject to the judgment. On the other hand, those Class Members who opt out of the settlement will not be eligible to obtain payment pursuant to this settlement, nor will they be bound by the judgment and associated waiver or release of related claims.

## **VII. THE RIGHTS AND OPTIONS OF CLASS MEMBERS**

You have received this Notice because company records suggest that you are a member of the conditionally certified Class. Current Members of the Class have three options:

**First**, individuals who are currently Members of the Class, including you, may choose to remain Members of the Settlement Class and receive a share of the settlement. To remain a member of the Settlement Class and be mailed your share of the settlement following and assuming approval of the settlement by the Court, you need not take any action. **IF YOU DO NOTHING, YOU WILL RECEIVE A SETTLEMENT PAYMENT AND BE BOUND BY THE TERMS OF THE SETTLEMENT.**

**Second**, if you do not wish to be part of this settlement, you may elect to "opt out" of the Settlement Class and thus exclude yourself from this action and the associated settlement and judgment. Class Members who opt out of this action would remain free, subject to the statute of limitations and applicable statutory, common law or other restrictions, to bring against FSMI otherwise viable claims of the nature encompassed by this settlement and associated release. Similarly, if you decide to opt out, you will not be allowed to object to this settlement. The deadline to opt out is **April 3, 2017**. This deadline is final, and forms not postmarked before the pertinent deadline will not be honored. **IF YOU OPT OUT OF THE SETTLEMENT, YOU WILL NOT RECEIVE A PAYMENT.**

To elect to opt out of the lawsuit and associated settlement, you must send a letter to the Settlement Administrator and also to Class Counsel stating "With respect to the Thomas Matter, I wish to opt out of the Settlement Class and to exclude myself from the associated settlement and judgment." You will also need to include your name, address, phone number and the month and year you began working for FSMI, and your signature on the letter. Class Counsel's address is listed above. The Settlement Administrator's address is:

FSMI SETTLEMENT ADMINISTRATOR  
C/O RUST CONSULTING INC - 5529  
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**Third**, and in addition to either one of the above options, Class Members may (a) participate in this lawsuit at their own expense by obtaining their own attorneys (Class Members who choose this option will be responsible for any attorney fees or costs incurred as a result of this election); and/or (b) submit written objections to the settlement by mailing them to the Settlement Administrator and Class Counsel at the above-listed addresses no later than **April 3, 2017**. Class Counsel will present these objections to the Court. Late objections will not be valid.

**Finally**, please be advised that if you fail to take any action (*i.e.*, fail to submit a claim form and fail to opt out), you will remain in the Settlement Class and receive your settlement payment, shall be deemed to have forever released and discharged the Released Claims, and will be subject to the judgment rendered in this action, *i.e.*, the judgment issued in connection with the settlement.

If you remain in the Settlement Class (*i.e.*, do not opt-out), and the Settlement is ultimately approved by the Court, you will be deemed to have forever released FSMI of any known or unknown claims for failure to provide rest and/or meal periods or any associated benefits or remedies.

Specifically, if you remain in the Settlement Class (*i.e.*, do not opt-out), and the Settlement is ultimately approved by the Court, you will be deemed to have forever released and discharged FSMI and all of its past and present affiliates, directors, officers and employees from any and all claims of any nature or kind whatsoever, whether known or unknown, based on any actual or alleged failure to provide sufficient rest and/or meal periods or pay additional sums of money in lieu thereof and all derivative claims, including claims for (A) failure to pay regular, overtime, and/or premium wages per the allegations of the complaint; (B) failure to comply with payroll, wage record-keeping, and/or wage statement itemization requirements; (C) failure to timely pay wages due at termination or otherwise; (D) and to the extent not covered above, any claims based on facts pled in the Litigation. Specifically, this release shall result in the waiver of all claims, including without limitations unknown claims, demands, rights, liabilities and causes of action of every nature and description whatsoever including without limitation statutory, constitutional, contractual or common law claims, whether known or unknown, whether or not concealed or hidden, against FSMI and any of its affiliated persons or entities for any type of relief as a result of the Class Member's employment in California for (a)(i) failure to provide sufficient meal and/or rest periods; (ii) associated failure to pay premium or other wages; (iii) failure to comply with payroll or wage record-keeping or wage statement itemization requirements; and (iv) failure to timely pay Wages due at termination or otherwise; (b) penalties or any other remedies for any of the claims covered by subsection (a) above under any statute or regulation or other provision of law, including without limitation claims under California Labor Code sections 201, 201.3, 202, 203, 204, 226, 226.7, 512 & 1194, California Labor Code section 2698 *et seq.*, California Business and Professions Code section 17200 *et seq.*, any applicable California Industrial Welfare Commission Wage Order (including without limitation Wage Order 4), and the federal Fair Labor Standards Act; (c) injunctive relief, restitution, disgorgement, accounting, declaratory relief or other equitable relief for any of the claims covered by subsection (a); (d) any and all claims for interest, costs, or attorney fees for any of the claims covered by subsection (a), including without limitation California Labor Code sections 218.5, 1194 & 2698 *et seq.*; and (e) to the extent not covered above, all claims arising from the factual allegations pled in the Litigation.

With respect to those claims released by the above specified release, and only such claims (as opposed, for example, to claims for wrongful termination or Workers Compensation), all Settlement Class Members, *i.e.*, people who do not opt out of the settlement, shall be deemed to have, and by operation of the judgment shall have, expressly waived, the rights and benefits of California Civil Code section 1542, which provides as follows:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

## VIII. HEARING ON SETTLEMENT

The Court will hold a hearing on the advisability and propriety of this settlement on May 3, 2017, at 3:00 p.m.. This hearing will take place at Courtroom 18 of the Sonoma County Superior Court, located at 3055 Cleveland Avenue, Santa Rosa, CA 95403, Judge Rene Chouteau, presiding. Attendance at this hearing is completely optional; attendance at the hearing is not required at all, and it is not required to participate in the settlement or opt out of the lawsuit.

## **IX. EXAMINATION OF PAPERS FILED IN THIS ACTION**

This Notice does not fully describe the action. Members of the public, including but not limited to those whose rights may be affected by this action, may inspect the files (including the full settlement agreement) at the Office of the Court Clerk at the following address:

Clerk of Court  
Sonoma County Superior Court – Hall of Justice  
600 Administration Drive, Room 107J  
Santa Rosa, CA 95403

During the pendency of the notice period, you can also view copies of the key filings in this case on Class Counsel's website at the web address: [www.hoyerlaw.com/FSMI-settlement-information.php](http://www.hoyerlaw.com/FSMI-settlement-information.php).

**PLEASE DO NOT CALL OR WRITE THE COURT OR THE CLERK OF THE COURT WITH QUESTIONS REGARDING THIS ACTION.**

