

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND RIGHT TO OPT-OUT

Reynaldo Suaverdez v. Circle K Stores Inc., 1:20-cv-01035-RMR-NYW (D. Colo.)

**A FEDERAL COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.**

TO: [INSERT CLASS MEMBER'S NAME]

- **PLEASE READ THIS NOTICE CAREFULLY. IT TELLS YOU ABOUT THE SETTLEMENT OF A CLASS ACTION LAWSUIT THAT INCLUDES YOU.**
- **YOU ARE ELIGIBLE TO RECEIVE A PAYMENT FROM THE SETTLEMENT OF THIS LAWSUIT.**
- **IF YOU WISH TO OBJECT TO OR EXCLUDE YOURSELF FROM THE SETTLEMENT, YOU MUST FOLLOW THE DIRECTIONS IN THIS NOTICE.**
- **IF YOU RECEIVED THIS NOTICE ON BEHALF OF A CLASS MEMBER WHO IS DECEASED, YOU SHOULD PROVIDE THE NOTICE TO THE AUTHORIZED LEGAL REPRESENTATIVE OF THAT CLASS MEMBER.**

A proposed settlement has been reached between the parties in this class action pending in the United States District Court for the District of Colorado (the "Lawsuit") brought on behalf of all individuals who worked as non-exempt store employees of Circle K Stores Inc. ("Circle K") in Colorado between March 15, 2017 and March 15, 2020 (the "Settlement Class"). The federal court has preliminarily approved the settlement.

You are receiving this Notice because you are a member of the Settlement Class ("Settlement Class Member"). This Notice informs you of how you can object to the settlement or exclude yourself from the settlement. If the settlement is finally approved by the Court, you will receive a settlement payment and will be bound by the settlement unless you exclude yourself from the settlement by following the instructions in this Notice.

If the Court finally approves the settlement and you do not exclude yourself from the settlement, you will receive a payment of approximately **[\$insert amount]**.

The Court will decide whether to finally approve the settlement during a hearing ("the Fairness Hearing") to be conducted at 10 AM on February 23, 2022, in Courtroom A-702 of the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294-3589.

What Is The Class Action About?

This action involves a class of current and former non-exempt employees of Circle K stores in Colorado. The action seeks unpaid meal and rest break payments on behalf of these individuals. Circle K and its owners and managers deny any wrongdoing or liability. The settlement is an effort by both sides to avoid costly litigation. The Court has not decided who is right.

What Are My Rights?

You have the following choices:

DO NOTHING, STAY IN THE SETTLEMENT CLASS, AND <u>RECEIVE A PAYMENT</u>	By doing nothing, you will remain in the Settlement Class and you will receive a settlement payment. You will be legally bound by all orders and judgments entered by the Court, and will not be able to sue Circle K in any lawsuit relating to pay for alleged meal and rest breaks before March 15, 2020.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS (“OPT OUT”) AND <u>DO NOT RECEIVE A PAYMENT</u> Postmark Deadline: December 24, 2021	You may exclude yourself from of the Settlement Class (also called “opting out”). If you exclude yourself, you will receive no benefits or payment, you will not give up any legal claims you may have against Circle K, and you will not be bound by any orders or judgments of the Court. To exclude yourself from the settlement, you must send a letter stating that you want to exclude yourself from the Settlement Class. This letter must include your name, address, telephone number, and the last four digits of your social security number. The letter must be mailed to the following address: Suaverdez v Circle K Stores Settlement Administrator; c/o JND Legal Administration. P.O. Box 91232, Seattle, WA 98111. To be valid, the letter must be postmarked by December 24, 2021.
OBJECT TO THE SETTLEMENT Postmark Deadline: December 24, 2021	You may object to the settlement. If you object and the Court finally approves the settlement, you will remain in the Settlement Class, receive a settlement payment, be legally bound by all orders and judgments entered by the Court, and will not be able to sue, or continue to sue, Circle K in any lawsuit relating to pay for alleged meal and rest breaks before March 15, 2020. To object to the settlement, you must send a letter describing the

	reasons for your objection. This letter must include your name, address, telephone number, and the last four digits of your social security number. The letter must be mailed to the following address: Suaverdez v Circle K Stores Settlement Administrator, c/o JND Legal Administration, P.O. Box 91232, Seattle, WA 98111 To be valid, the letter must be postmarked by December 24, 2021. Finally, if you object to the settlement, you are entitled to appear at the Fairness Hearing and will be provided with an opportunity to further explain the basis for your objection to the Court.
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What If I Have Questions About This Notice or The Settlement?

All questions concerning this Notice or the Settlement should be directed to the Settlement Administrator below:

Suaverdez v Circle K Stores Settlement Administrator
c/o JND Legal Administration
P.O. Box 91232
Seattle, WA 98111
Toll-Free (855) 918-6075

In addition, information about the Settlement can be found at this website:
www.COBreakLitigation.com.

Do I Have A Lawyer In The Lawsuit?

The Court has appointed the following attorneys (“Class Counsel”) to represent you and other Settlement Class Members:

Larkin Reynolds, Esq.
FOUNDRY LEGAL, LLC
3120 Blake Street, Suite A4
Denver, CO 80205

Brian D. Gonzales, Esq.
THE LAW OFFICES OF BRIAN D. GONZALES, PLLC
2580 East Harmony Road, Suite 201
Fort Collins, CO 80524

Alexander Hood, Esq.
HOOD LAW OFFICE, PLLC
358 Blue River Pkwy Suite E-90
Silverthorne, CO 80498

You will **not** be required to pay the above attorney from your settlement payment.

These attorneys, who have been working on this lawsuit for over a year, will submit a motion requesting that the Court award them \$1,180,666.67 for their accumulated attorney's fees and out-of-pocket expenses.

If you want your own lawyer, you may hire one at your own expense. If you do so, your lawyer must file an appearance in the action.

What Will I Receive From The Settlement?

The Gross Settlement Amount is \$3,500,000. This is the maximum amount that Circle K is obligated to pay under the settlement. This amount consists of (i) up to \$1,166,666.67 for attorney's fees and litigation costs, (ii) reasonable attorney's expenses incurred, estimated to be \$14,000.00 (iii) up to \$30,000 for the named plaintiff as a service award, (iv) settlement administration costs, (v) compensation for Settlement Class Members who do not exclude themselves from the settlement, and (vi) the employer portion of payroll taxes and withholdings.

Your individual payment amount is allocated on a pro rata basis based on the total number of workweeks worked multiplied by your average number of hours worked per week ("Qualifying Hours") as a non-exempt employee in a Colorado Circle K store between March 30, 2016 and March 15, 2020, as well as your average hourly rate of pay. Your individual Qualifying Hours total [insert]. Based on this number, your estimated settlement share is \$[INSERT]. This is subject to change based on the final ruling of the Court. If you believe this number of Qualifying Hours is incorrect, you must send a letter to the Settlement Administrator on or before the deadline to exclude yourself from the settlement indicating what you believe to be the correct number of Qualifying Hours. You must also send any documents or other information that support your belief. The Settlement Administrator will resolve any dispute regarding the number of Qualifying Hours you worked based on Circle K's records and any information that you provide.

What Do I Give Up As A Result Of The Settlement?

Upon final approval of the Settlement, each Settlement Class Member who does not opt out of the settlement is deemed to fully release and discharge Circle K and its previous and present parents, subsidiaries, affiliates, predecessors, successors, representatives, officers, directors, agents, attorneys, accountants, assigns, and employees, in their personal, individual, official, and/or corporate capacities, from any and all claims and rights of any kind that they may have, whether known or unknown, whether contingent or non-contingent, whether specifically asserted or not, accruing between March 30, 2016 and March 15, 2020 and based upon the alleged missed meal and rest breaks of current and former Colorado Circle K hourly convenience store employees under Colorado

law, the Employee Retirement Income Security Act, the Fair Labor Standards Act, and any other local, state, and federal laws, including all wage and hour, common, tort, and contract laws, that were or could have been asserted based upon the alleged facts related to the wage claims in the Lawsuit, including, but not limited to, claims for attorney's fees, penalties, interest, liquidated damages, and litigation costs (collectively "Released Claims").

The Released Claims do not include a release of any other rights you have or claims you may have as an employee or former employee of Circle K. The Released Claims are specifically limited to the claims set forth above.

When Will The Court Decide Whether To Give Final Approval To The Settlement?

The Court will hold the Fairness Hearing at 10 AM on February 23, 2022, in Courtroom A-702 of the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294-3589. At this time, the Court will review the papers submitted by the parties and any objectors, and hear any properly noticed witnesses. The Court will decide either at or after the fairness hearing whether to grant final approval of the settlement, and will issue a written order of its decision.

May I Attend The Fairness Hearing?

Yes, any Settlement Class Member may attend the hearing, but you do not need to do so in order to receive your individual payment amount. If you object to the settlement, you may submit your objections, as detailed above, along with any supporting documents, and declare your intent to appear at the fairness hearing, either personally or through an attorney.

What Happens If The Court Does Not Give Final Approval?

If the Court denies the parties' request for final approval of the Settlement Agreement, no payments will be made under the settlement and this action will revert to its status immediately prior to the execution of the Settlement Agreement.

If The Settlement Is Approved, When Will I Receive My Settlement Check?

If the Court grants final approval, the Settlement Agreement will become effective after expiration of the time for all appeals of the Court's final approval order or, if an appeal is filed, a final determination that the settlement should be approved. If you are eligible for an individual settlement amount, it will be distributed to you within 30 days after the settlement becomes effective.

How Will My Settlement Amount Be Distributed To Me?

If you are eligible for a settlement payment, the settlement administrator will mail you a check. 50 percent of your settlement amount will be allocated to back pay and this portion will be subject to withholding of federal, state, and local income and payroll taxes, as well as any other required withholdings such as garnishments. You will receive an IRS Form W-2 for this payment from the settlement fund. The remaining 50 percent of your settlement amount will be for non-wages (penalties/interest) and will not be subject to any payroll or income tax withholding. Only 50 percent of your settlement monies received as a result of this settlement will be taxed as wages. Taxes will not be withheld by Circle K from the remaining portion. You will receive an IRS Form 1099 for this second amount. The employer's share of taxes will also be paid from the Gross Settlement Amount.

Who Is Responsible For Paying The Taxes On My Settlement Amount?

You are solely responsible for ensuring all taxes are paid based on your receipt of a settlement payment. Neither your attorneys nor Circle K's attorneys can provide any advice about such tax payments. You should consult your tax advisor if you have questions about the tax consequences of your individual settlement payments.

How Can I Get a Copy of the Settlement Agreement and the Court's Preliminary Approval Order?

This Notice is a summary of your legal rights. These documents and all other pleadings and records in this lawsuit may be examined at any time during regular business hours in the Clerk's Office of the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294-3589. The Settlement Agreement is also available for review by contacting the Settlement Administrator.

You should not contact the Court if you have questions about the settlement or this Notice.