

NOTICE OF COLLECTIVE ACTION LAWSUIT

Charles Seward v. International Business Machines Corporation ("IBM")

Case #08 CV 3976, United States District Court for the Southern District of New York

TO: CERTAIN CALL CENTER EMPLOYEES AT THE IBM RIVEREDGE FACILITY IN ATLANTA, GEORGIA

RE: LAWSUIT ALLEGING UNPAID OVERTIME FOR PRE-SHIFT WORK

I. INTRODUCTION

A collective action lawsuit has been filed against IBM alleging it failed to pay overtime for pre-shift time worked by certain nonexempt call center employees at the Riveredge facility during one or more workweeks where time worked exceeded 40 hours per week. You may be "similarly situated" to the Named Plaintiff and, therefore, can join this lawsuit. This letter advises you how this suit may affect your rights and instructs you on the procedure for participating in this suit, if you choose to join.

II. DESCRIPTION OF THE LAWSUIT

On April 28, 2008, Charles Seward sued IBM for allegedly failing to pay overtime compensation under the Fair Labor Standards Act. The case was filed in Federal Court in the Southern District of New York.

This lawsuit alleges that nonexempt call center employees at IBM's Riveredge facility whose duties primarily consist (or consisted) of providing customer service by telephone ("affected employees") did not receive overtime compensation for pre-shift work as required by law in one or more workweeks in which they worked more than 40 hours. The objective of the lawsuit is to compel IBM to pay the affected employees for the pre-shift overtime they allegedly worked, plus interest, statutory penalties, reasonable attorneys' fees and litigation costs. IBM denies the Named Plaintiff's allegations and contends that it paid affected employees for all time worked, including any pre-shift work. IBM further denies that it in any way violated the law, that it owes any employee any additional compensation, or that it owes interest, statutory penalties, reasonable attorneys' fees or litigation costs.

III. WHO CAN JOIN

Charles Seward has sued on behalf of:

1. himself; and,
2. affected employees as described above who have worked at the Riveredge facility during a time period since July 16, 2006.

If you have already brought a lawsuit against IBM for failure to pay overtime wages owed to you, you may not be eligible for this lawsuit.

IV. YOUR RIGHT TO PARTICIPATE IN THIS SUIT

If you fit the definition above, you may join this suit (that is, you may "opt-in") by faxing the Consent to Join Collective Action form to (212) 898-9086 or mailing it to the Named Plaintiff's counsel at the following address:

ERIK H. LANGELAND, P.C.

Attn: IBM Class Action

500 Fifth Avenue, Suite 1610

New York, NY 10110

(212) 354-6270 (Phone)

(212) 898-9086 (Fax)

elangeland@langelandlaw.com

Alternatively, you may retain your own counsel if you choose. However, whether you select Named Plaintiff's counsel or other counsel of your choosing, a "Consent to Join" form must be filed with the federal court on or before November 4, 2009. If the Consent to Join Collective Action form is not filed on your behalf with the Federal Court on or before November 4, 2009, you may not participate in the lawsuit.

V. EFFECT OF JOINING THIS SUIT

If you choose to join in the suit, you will be bound by the judgment or settlement, whether it is favorable or unfavorable. While this suit is pending, you may be required to respond to written questions, sit for depositions, and/or testify in court. The attorneys for the Named Plaintiff are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fee. If there is a recovery, the attorneys for the Named Plaintiff will receive a part of any settlement obtained or money judgment entered in favor of all who have opted into the case and selected Named Plaintiff's counsel as their counsel. If you sign and return the Consent to Join Collective Action form attached to this Notice, you are designating the Named Plaintiff as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiff's counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the Named Plaintiff will be binding on you if you join this lawsuit.

VI. NO LEGAL EFFECT IN NOT JOINING THIS SUIT

If you choose not to join this suit, you will not be affected by any judgment or settlement rendered in this case. If you choose not to join in this lawsuit, you are free to file your own lawsuit. The statute of limitations will continue to run on your claim until you join this suit or file your own.

VII. NO RETALIATION PERMITTED

Federal law prohibits IBM from retaliating against you in any manner because you join this lawsuit.

VIII. YOUR LEGAL REPRESENTATION IF YOU JOIN

Named Plaintiff's Counsel are:

Erik H. Langeland ERIK H. LANGELAND, P.C. 500 Fifth Avenue, Suite 1610 New York, NY 10110 (212) 354-6270 (212) 898-9086 (Fax) elangeland@langelandlaw.com	James Zouras Ryan F. Stephan Stephan Zouras LLP 205 North Michigan Ave, Suite 2560 Chicago, IL 60601 (312) 233-1550 (312) 233-1560 (Fax) lawyers@stephanzouras.com	Jon A. Tostrud R. Brent Walton CUNEO GILBERT & LADUCA, LLP 1801 Century Park East, Suite 2400 Los Angeles, CA 90067 (310) 556-9621 (310) 556-9622 (Fax) jtostrud@cuneolaw.com
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IX. FURTHER INFORMATION

You may obtain further information about this Notice by calling or writing to Named Plaintiff's counsel at the number or address stated above. Please do not contact the Court or IBM with questions regarding this Notice.

Dated: August 6, 2009

Sincerely,

_____/s/ Erik H. Langeland
Erik H. Langeland
500 Fifth Avenue, Suite 1610
New York, NY 10110
(212) 354-6270
(212) 898-9086 (Fax)
elangeland@langelandlaw.com

****PLEASE NOTE****

There is a two (2) year deadline for filing overtime claims (or three (3) years if the violation was willful) running from the date(s) the overtime hours were actually worked.

THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. THE COURT TAKES NO POSITION ON THE MERITS OF PLAINTIFF'S CLAIMS OR DEFENDANT'S DEFENSES.