

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF COLLECTIVE ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

YOU MUST RESPOND TO RECEIVE PAYMENT

<p>Sandra Medina, individually and on behalf of others similarly situated, and on behalf of the general public,</p> <p>Plaintiff,</p> <p>vs.</p> <p>Evolve Mortgage Services, LLC,</p> <p>Defendant.</p>	<p>CASE NO.: 8:21-cv-01338 CJC (JDEx) JUDGE: Honorable Cormac J. Carney COURTROOM: 9B (Santa Ana)</p> <p>NOTICE OF COLLECTIVE ACTION SETTLEMENT</p>
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TO: «EmployeeName»

The United States District Court for the Central District of California has authorized this Notice, which summarizes the settlement of this collective action lawsuit and explains what you must do to recover money under the settlement. **Please read this document carefully. If you submit an Opt-In Form by the deadline and in the manner discussed below, your gross individual share of the settlement will be «estAmount», less applicable withholdings. You must submit an Opt-In Form to receive payment. If you do not return an Opt-In Form, you will not receive payment.**

You may complete the Opt-In Form electronically by using your Passcode «Passcode» here:

<https://www.EvolveMortgageSettlement.com>

I. What is this lawsuit about?

The United States District Court for the Central District of California (“the Court”) oversees this lawsuit, which was filed on August 13, 2021 by Sandra Medina (“Named Plaintiff”), a former employee of Evolve Mortgage Services, LLC (“Defendant” or “Evolve”). In pertinent part, the Named Plaintiff has brought this lawsuit on behalf of herself and all other individuals who are or were employed by Evolve in the United States as non-exempt employees eligible for commission or other non-discretionary incentive pay, and who were paid overtime and non-discretionary incentive pay in the same pay period at least once, at any time between August 13, 2018 and December 31, 2021. In the lawsuit, the Named Plaintiff alleges that Evolve violated the Fair Labor Standards Act (“FLSA”) by incorrectly calculating overtime payments to non-exempt employees who were eligible for commission or other non-discretionary incentive pay. Specifically, the Named Plaintiff asserts that Evolve did not include certain commissions or other non-discretionary incentive pay when it calculated the overtime rate with which to pay any overtime

hours that employees worked. Based on the alleged improper calculations, the Named Plaintiff also alleged the following claims under California law: failure to pay overtime compensation, failure to pay proper meal period premiums, failure to provide accurate wage statements, waiting time penalties, and unfair competition.

Certain legal proceedings allow multiple claimants to sue together for the same relief. For the FLSA claims, this proceeding is known as a collective action. The Named Plaintiff has sought to assert her FLSA claim as a collective action. Evolve opposes the lawsuit on its merits, believes individualized issues regarding the amount of hours worked exist based on discrepancies between time records and computer activity data, and disputes that this lawsuit can proceed collectively.

The Court has not decided who is right or wrong or who will win the lawsuit, nor has the Court decided whether the case should proceed as a collective action. Instead, both sides agreed to a settlement. The settlement is made on a collective action basis and covers all individuals who are or were employed by Evolve in the United States as non-exempt employees eligible for commission or other non-discretionary incentive pay, and who were paid overtime and non-discretionary incentive pay in the same pay period at least once, at any time between August 13, 2018 and December 31, 2021. These individuals are referred to as FLSA Collective Members. The Named Plaintiff and her attorneys believe that the settlement is beneficial for all FLSA Collective Members.

II. Why did I get this Notice?

You received this Notice because you are an FLSA Collective Member, as defined above. This lawsuit has been settled subject to Court approval. As an FLSA Collective Member, you have the right to participate in the settlement. This Notice describes your options under the settlement.

III. What does the settlement provide?

Evolve will pay up to **Five Hundred Seventy-Five Thousand Dollars** (\$575,000.00) to settle the claims in the lawsuit in their entirety (the “Gross Settlement Value”). Of this amount, up to Three Hundred Eighty-Three Thousand Seven Hundred Fifty Dollars (\$383,750.00) will be allocated to settle the claims of all FLSA Collective Members who submit timely opt-in forms. In addition, the Gross Settlement Value will be allocated as follows: (1) Four Thousand (\$4,000) will be allocated to settle California Private Attorneys General Act (“PAGA”) claims. Of this amount, \$3,000 will be paid to the California Labor Workforce and Development Agency, as required by law, and \$1,000 will be allocated proportionately to members of the FLSA Collective who worked in California for Evolve between August 13, 2020 and December 31, 2021; (2) Plaintiff’s counsel’s attorneys’ fees, up to twenty-five percent of the Gross Settlement Value (or \$143,750.00); (3) Plaintiff’s costs of litigation, up to the amount of \$9,500.00; (4) a contingency fund of \$10,000.00 to resolve any potential disputes by FLSA Collective Members or to otherwise effectuate the purposes of the settlement; (5) The expenses of administering the settlement, up to the amount of \$16,500.00; and (6) A service award of up to \$7,500.00 for Plaintiff’s role in pursuing the litigation.

FLSA Collective Members who **timely return the enclosed Opt-In Form according to the instructions in Section IV below**, are called “Claimants.” Claimants will be eligible for a settlement payment. Each FLSA Collective Member’s potential damages for each pay period in the FLSA Collective Period has been calculated. For potential overtime damages, non-discretionary incentive pay has been divided by the total number of hours worked in each pay period. That hourly rate has been multiplied by 0.5, and that overtime rate has been multiplied by the number of overtime hours worked in the pay period. Plaintiff’s Counsel also calculated, for Members of the FLSA Collective who worked in California, potential PAGA penalties, meal period premiums, waiting time penalties, and wage statement penalties per the Labor Code and PAGA. To achieve an equitable allocation of settlement funds, overtime claims were given a 100% weighting, with approximately 5% additional weighting to account for potential liquidated damages. Meal period premiums were weighted at approximately 10%; waiting time and wage statement penalties were weighted at approximately 10% each; and PAGA penalties were weighted at approximately 5%.

Your settlement allocation provides 100% of the overtime Plaintiff’s Counsel believes is due to you, with an approximately 5% additional payment for potential liquidated damages. If you worked for Evolve in California, your settlement allocation includes additional amounts for any applicable California claims pursuant to the formulas described above.

Under the settlement, if you follow the steps described in Section IV, you are entitled to a gross individual payment of **«estAmount»**, less applicable withholdings (the “Settlement Payment”).

«estW2amount» of your Settlement Payment will be treated as payment for overtime and will be subject to certain withholdings and will be reported on an IRS Form W-2. The other **«est1099amount»** of your Settlement Payment will be characterized as payment for alleged liquidated damages, interest, and/or statutory penalties; this portion of your Settlement Payment is not subject to withholding and will be reported on an IRS Form 1099. You will be responsible for the filing and payment of any taxes for any payment you receive.

Importantly, you must follow the instructions in Section IV below to receive your payment.

IV. How do I participate in the settlement?

To recover money under the settlement, you must complete and return the Opt-In Form to the Settlement Administrator by First Class Mail, fax, online, or email on or before January 26, 2023.

Medina v. Evolve Mortgage, LLC
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

Telephone: 1-888-318-1746

Fax: 1-949-419-3446

Email: EvolveMortgageSettlement@cptgroup.com

<https://www.EvolveMortgageSettlement.com>

It is your responsibility to notify the Settlement Administrator of any correction or change to your address as listed on the outside of the envelope containing this Notice. You may update your address with the Settlement Administrator by submitting your former and current addresses to the Settlement Administrator at the above mailing address, website, or email address.

If the Court grants final approval of the settlement agreement and you choose to participate in the settlement by completing and returning the Opt-In Form, then you will release Evolve and all of Evolve's current or former parent companies, subsidiary companies and/or related companies, partnerships, joint ventures, and/or staffing agencies, and, with respect to each of them, all of their and/or such related entities' predecessors and successors, and, with respect to each such entity, all of its past, present, and future employees, officers, partners, principals, directors, stockholders, owners, representatives, assigns, attorneys, agents, insurers, employee benefit programs (and the trustees, administrators, fiduciaries, and insurers of such programs), and any other persons acting by, through, under, or in concert with any of the persons or entities listed in this subsection, and their successors (the "Released Parties"), from all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorneys' fees, damages, actions, or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that you have or may have brought against the Released Parties based on the facts alleged in the Complaint and/or First Amended Complaint during the period from August 13, 2018 through and including December 31, 2021 for unpaid overtime in violation of the Fair Labor Standards Act, 29 U.S.C. section 201 *et seq.* and the corresponding Department of Labor Regulations, 29 C.F.R. section 785 *et seq.* and 778 *et seq.*, including, but not limited to, any claims for unpaid wages, economic damages, liquidated damages, other monies, or other relief.

If you are a Member of the FLSA Collective who worked in California, you will release the Released Parties from all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorneys' fees, damages, actions, or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that you have or may have brought against the Released Parties based on the facts alleged in the Complaint and/or First Amended Complaint during the period beginning August 13, 2017 through and including December 31, 2021 for unpaid overtime, meal period premiums, wage statement penalties, waiting time penalties, PAGA penalties, statutory liquidated damages, and attorneys' fees and costs, including, but not limited to, any claims under California Labor Code sections 201, 202, 203, 204, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1194, 1198, and 2698, *et seq.* based on alleged violations of these Labor Code provisions, as well as claims under California Code of Civil Procedure section 1021.5, California Business & Professions Code section 17200, *et seq.*, and the applicable Industrial Welfare Commission Wage Orders, or any similar state or local law.

Further, the Plaintiff, on her own behalf and on behalf of the State of California, will release all PAGA claims, whether known or unknown, contingent or accrued, that Plaintiff and the PAGA Members have or may have brought pursuant to the California Private Attorneys General Act of 2004 ("PAGA") against the Released Parties based on the facts alleged in the Complaint, the First Amended Complaint, and/or Plaintiff's PAGA Notice Letter dated September 3, 2021 (attached to the First Amended Complaint as Exhibit C) based on alleged violations of unpaid overtime,

failure to provide meal periods and/or meal period premiums, failure to provide accurate itemized wage statements, failure to pay wages upon separation of employment, civil penalties, and attorneys' fees and costs, based on alleged violations of California Labor Code sections 201, 202, 203, 204, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1194, and 1198, and the applicable Industrial Welfare Commission Wage Orders, during the period between August 13, 2020 and December 31, 2021.

If you have any questions about the rights you would be giving up by participating in this settlement, you should contact Plaintiff's Counsel listed in Section VI below or consult with another attorney.

You have the right to participate in this settlement without retaliation. It is a violation of federal law for Evolve to fire, discipline, or retaliate against you in any manner for taking part in this case.

V. What if I do not sign the Opt-In Form, or I return it after the deadline?

You are not required to participate in the settlement. If you wish to be excluded from the settlement, you do not have to do anything. If you return the Opt-In Form after the deadline, you will not receive any money from this settlement.

If you do not participate in the settlement, you will not release any legal claims against Evolve or the Released Parties, you will not receive a Settlement Payment, and the applicable statute of limitations will continue to run and may negatively impact any claim you may have.

The only exception is that, if you worked in California, this settlement will release your entitlement to PAGA penalties for the violations Plaintiff alleged in the case and you are entitled to your share of PAGA penalties even if you do not participate in the settlement.

VI. Who is serving as my attorney?

The following law firm ("Plaintiff's Counsel") filed the lawsuit on behalf of the Named Plaintiff: Nichols Kaster, LLP, located at 235 Montgomery Street, Suite 810, San Francisco, California 94104; phone: (415) 277-7235. Plaintiff's Counsel are available to answer your questions concerning the lawsuit, the settlement, or your rights under the settlement in strict confidence. But they may not consult on the tax consequences of participating or not participating in the settlement. You may also retain or consult with any attorney of your choice, at your own expense.

VII. How will the attorneys get paid?

Under the settlement, Plaintiff's Counsel will receive attorneys' fees and costs as set forth in Section III, above, if approved by the Court. You will not pay any additional attorneys' fees or expenses out of your Settlement Payment listed in this Notice.

VIII. How do I obtain more information?

This Notice summarizes the most important aspects of the settlement. For more detailed information, you may inspect the Court's files, the settlement agreement, and any papers filed in the Action, at the Clerk's Office of the United States District Court for the Central District of California, located at the Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, CA, 92701-4516 during regular court hours, case number 8:21-cv-01338 CJC (JDEx).

Relevant documents related to the case are also available at the Settlement Administrator's website: <https://www.EvolveMortgageSettlement.com>.

To receive your share of the settlement – «estAmount», less applicable withholdings – you must submit an Opt-In Form by the deadline.

You may complete the Opt-In Form electronically here using the QR Code to visit the URL below:

<https://www.EvolveMortgageSettlement.com>

