

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JASON PIETRZYCKI, on behalf of )  
himself and all other plaintiffs similarly )  
situated, )

Plaintiffs, )

v. )

Case No.: 14-cv-6546

HEIGHTS TOWER SERVICE, INC., )  
and MARK MOTTER )

Defendants. )

**NOTICE OF PENDENCY OF CLASS ACTION,  
PROPOSED SETTLEMENT, AND FAIRNESS HEARING**

**TO:** Member of the Certified Class Action Lawsuit

<p><b>Please Read This Notice Carefully. This Notice Relates to a Proposed Class Action Settlement of Litigation. If You Are a Settlement Class member, It Contains Important Information as to Your Rights.</b></p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**What is this Notice about?**

This Notice is to tell you about the class settlement of a lawsuit that was filed against Heights Tower Service, Inc. and Mark Motter (“Defendants”) and to tell you about a “Fairness Hearing” before Judge Jeffrey T. Gilbert on June 12, 2018 at 11:00 a.m. in Courtroom 1386 of the United States District Courthouse, located at 219 S. Dearborn, Chicago, Illinois, to determine whether the proposed settlement described in the Class Action Settlement Agreement fairly resolves the claims against Defendants as explained below.

This Notice **is not** a notice of a lawsuit **against** you. A Federal Court has authorized this Notice.

**If you want to receive the money that is allocated to you, you do not have to do anything, you will automatically have a check mailed to your last known address if the settlement is approved.**

**What is the Litigation about?**

In this case, Plaintiff has asserted class action claims for Defendants’ alleged failure to properly pay overtime. Plaintiff alleges that they should have had their “drive time” included in their hourly

calculations for determining overtime pay. Plaintiff filed this lawsuit on his own behalf and for the benefit of other class members, of which you may be one. Defendants deny Plaintiff's claims.

### **Why did I get this Notice?**

You received this Notice because the lawyers for the Defendants identified you as a person in the Settlement Class. If you received this Notice, you are eligible to participate in the Settlement and may be eligible for compensation as described below.

### **What is the "Settlement" and how was it agreed upon?**

The settlement relates to an alleged miscalculation of your overtime pay. Specifically, the Plaintiff alleged that the drive time hours were not included for purposes of determining whether or not you were entitled to overtime pay. There has been no determination by any court, administrative agency, or other tribunal as to the truth or validity of the factual allegations made against Defendants in this litigation. Defendants have denied all such allegations.

Unless there is a settlement, the litigation will continue. In settlement negotiations, the Plaintiff and Defendants have taken into account the uncertainty of the outcome and the risk of litigation. In light of these factors, the Plaintiff and Defendants believe that the Settlement is the best way to resolve the litigation while minimizing further expenditures.

The Plaintiff and Defendants and their respective counsel believe that the Settlement is fair, reasonable, and adequate, and in the best interests of all parties, including the settlement class.

### **What are the terms of the Settlement?**

Defendants have agreed to pay a settlement amount of \$333,333.00 to resolve all claims (inclusive of wages, penalties, interest, attorneys' fees, costs, expenses and a class representative incentive fee) in this lawsuit as described in the Settlement Agreement. Each Settlement Class Member shall be allocated a portion of the Settlement Amount. Every Settlement Class member, including Plaintiff, will be allocated a share of the settlement proportionate to the overtime hours worked by the Settlement Class Member. The amount that you will receive, and all paperwork relating to the settlement and the lawsuit can be viewed on line at: <http://chicagolandemploymentlawyer.com/overtimedrive-time-settlement/>

### **Am I required to participate in the Settlement?**

As a Class Member, you have the right to exclude yourself from the lawsuit and "opt-out" of the settlement if you comply with the opt-out procedure stated below. If you exclude yourself, you will not receive any payment from the Settlement Fund.

To effectively opt-out, you must mail to the Class Counsel a written statement expressing your desire to be excluded from the Settlement in *Pietrzycki v. Heights Tower, Inc.* no later than May 24, 2018 ("Request for Exclusion"). Your written statement must state: "I do not want to receive money from this settlement. Therefore, I request to be excluded from the settlement in *Pietrzycki*

*v. Heights Tower, Inc. and Mark Motter* (Case No. 14-cv-6546) (U.S. District Court for the Northern District of Illinois).” You must also include your full name, address, and telephone number, and you must personally sign the letter. You must then mail copies of the statement to The Fish Law Firm, P.C., 200 E. 5<sup>th</sup> Avenue, Suite 123, Naperville, Illinois 60563.

**If you opt-out of the Settlement you will not recover any money as part of this Settlement.**

Neither Plaintiff nor Defendants nor their counsel make any representations to you regarding what, if any, legal remedies are available to you should you choose to opt-out

**YOU SHOULD NOT OPT-OUT IF YOU WISH TO PARTICIPATE IN THE SETTLEMENT. YOU DON’T HAVE TO DO ANYTHING. YOU WILL AUTOMATICALLY GET THE MONEY.**

**What is the Fairness Hearing and do I need to attend?**

The purpose of the Fairness Hearing in this case is to determine whether the proposed Settlement of the litigation is fair, reasonable, and adequate, and whether the proposed Settlement should be finally approved by the Court and the Litigation dismissed. **Any Class Member who is satisfied with the proposed Settlement does not have to appear at the Fairness Hearing.**

Any person who has not validly and timely opted-out of the Settlement, but who objects to the proposed Settlement, may appear in person or through counsel at the Fairness Hearing and be heard as to why the Settlement should not be approved as fair, reasonable, and adequate, or why a final judgment should or should not be entered dismissing the litigation with prejudice. If you choose to object to the Settlement, you must on or before May 24, 2018, mail your written objection to The Fish Law Firm, P.C., 200 E. 5<sup>th</sup> Avenue, Suite 123, Naperville, Illinois 60563. The objection must set forth, in clear and concise terms, the legal and factual arguments supporting the objection. Your written objection must also include (a) your full name, address, and telephone number, (b) dates of your employment with Defendant; (c) copies of papers, briefs, or other documents upon which the objection is based, (d) a list of all persons who will be called to testify in support of your objection, (e) the caption of the lawsuit including the case number, and (f) your signature, even if you are represented by counsel. Settlement class members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the Settlement.

If you file an objection and wish it to be considered, you must also appear at hearing on June 12, 2018 at 11:00 a.m. before Judge Jeffrey Gilbert, Courtroom 1386, 219 South Dearborn, Chicago, Illinois at which time Judge Gilbert will consider whether to grant final approval of this Settlement. **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT.** Please note that it is not sufficient to simply state that you object. You must state reasons why you believe the Settlement should not be approved.

**What rights am I giving up if I participate in the Settlement?**

As a Class Members, if you do not opt out of the Settlement you will release and discharge on behalf of yourself and each of your heirs, representatives, successors, assigns, and attorneys all claims specifically raised or which could have been raised in the litigation for the payment of

overtime during the Class Period that specifically relate to an alleged failure to count drive time when calculating your overtime compensation. (“Released Wage Claims”).

**How are the lawyers for the Settlement Class Paid?**

Class Counsel will receive an amount approved by the Court for its reasonable attorney fees and costs. None of this amount is being taken out of your recovery that is listed on Exhibit B to the Settlement Agreement. The attorneys' fees are being paid separately by the Defendants and the Defendants have agreed to pay \$211,432.87 to Class Counsel for the reimbursement of attorneys' fees, expenses and costs.

**What if the Court does not approve the Settlement?**

If the Court does not approve the settlement, the case will proceed as if no settlement had been attempted, and there can be no assurance that you will recover more than is provided for in the Settlement, or indeed, anything.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES ABOUT THIS SETTLEMENT.**

Dated: April 24, 2018

BY ORDER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ILLINOIS, EASTERN DIVISION