

OPT-IN CONSENT FORM

Nicole Dietzen, et al. v. Community Loans of America, Inc., 18-cv-818

United States District Court, Eastern District of Wisconsin
Green Bay Division

To be eligible to participate in the settlement in the above-referenced action ("the Lawsuit"), you must complete this Opt-In Consent Form and e-mail, fax or mail it (preferably in the accompanying, self-addressed envelope) so that it is postmarked no later than March 19, 2019:

**Administrator – CLA Wage Lawsuit
Post Office Box 90100
Los Angeles, CA 90009**

Your Name: Kara Jean Dusky
Print CLEARLY

Street/P.O. Box: 3111 Wayne Ave

City/State/Zip: Granite City, IL 62040

Primary Phone: 618 567-8574

RECEIVED
JAN 28 2019
BMC GROUP

CONSENT TO JOIN COLLECTIVE ACTION
Pursuant to Fair Labor Standards Act, 29 U.S.C. § 216(b)

1. I have read and understand the accompanying Notice of Collective Action and Proposed Settlement ("Notice"). If I am deemed eligible to participate in the settlement of the Lawsuit, I consent and agree to settle my legal claims against Community Loans of America, Inc. ("CLA") under the terms described in the Notice.
2. I had occasion to earn bonuses or commissions at CLA that were not included in the regular rate during the FLSA Payment Period.
3. I understand that the Lawsuit is brought under the Fair Labor Standards Act of 1938, as amended, and, if I am deemed eligible to participate in the settlement of the Lawsuit, I consent and agree to become a party to the Lawsuit and to be bound by the settlement of the Lawsuit and any other Court orders.
4. By completing this form and accepting benefits under the settlement of the Lawsuit, I release CLA and any of its corporate affiliates, predecessors, successors, past, present and future officers, directors, agents, employees, members, managers, partners, attorneys, executors, employee benefit plans, insurers, assigns and other representatives of any kind, from any claims that were asserted or reasonably could have been asserted in the Lawsuit, as described in the accompanying Notice. This release includes any claims for unpaid wages or overtime pay under the Fair Labor Standards Act or any similar laws and will be effective as of the date of the Final Order Approving Settlement..

1/22/19
Date

Kara J. Dusky
Signature

If you move after submitting this Consent Form but before receiving money from the settlement, please send a letter to Administrator – CLA Wage Lawsuit, Post Office Box 90100, Los Angeles, CA 90009 to ensure that the settlement check is forwarded to you.

NOTICE OF COLLECTIVE ACTION AND PROPOSED SETTLEMENT

Dietzen v. Community Loans of America, Inc. ("CLA")

Case No. 18-cv-818 In The United States District Court For The
Eastern District of Wisconsin (the "Lawsuit")

TO: All hourly, non-exempt employees who worked as Branch Managers at any CLA location except in the States of Georgia, Tennessee, and California at any time from May 29, 2016 to January 4, 2019 who received bonuses and/or commissions during that time that were not included in their regular rates of pay for purposes of overtime calculation.

RE: Fair Labor Standards Act ("FLSA") Unpaid Overtime Action

**PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE DESCRIBES A
PROPOSED SETTLEMENT OF A FLSA COLLECTIVE ACTION. THIS NOTICE
COULD AFFECT YOUR LEGAL RIGHTS**

I. INTRODUCTION

This notice serves three purposes: (1) inform you of the existence of a collective action in which you are potentially "similarly situated" to the Named Plaintiff; (2) instruct you on how this action may affect your rights; and (3) explain the proposed settlement of this action and inform you how you may participate in the settlement if it is finally approved.

II. DESCRIPTION OF THE ACTION

Named Plaintiff, Nicole Dietzen, brought this action against CLA on her behalf, and on the behalf of all past and present hourly, non-exempt employees who worked as Branch Managers at any CLA location except in the States of Georgia, Tennessee, and California at any time from May 29, 2016 to January 4, 2019 ("FLSA Payment Period") who received bonuses and/or commissions during that time that were not included in their regular rates of pay for purposes of overtime calculation. The Lawsuit is pending in the United States District Court for the Eastern District of Wisconsin. Ms. Dietzen alleges that CLA failed to pay overtime wages on commissions and/or bonuses as required by federal law under the FLSA.

Ms. Dietzen looks to recover from CLA all unpaid overtime wages, liquidated (double) damages, reasonable attorneys' fees, and litigation costs on her behalf and on behalf of all other Branch Managers that join this collective action.

CLA denies all of Ms. Dietzen's allegations, including that CLA violated the FLSA.

The Court expresses no opinion on the merits of Ms. Dietzen's claims or CLA's

defenses.

Ms. Dietzen and CLA have negotiated a Settlement Agreement on behalf of the collective class of CLA employees described above. While the Court has made no final determination on the outcome of the Lawsuit, it has preliminarily approved the proposed Settlement Agreement and authorized this Notice.

THE TERMS OF THE SETTLEMENT

1. CLA will pay each individual who Opts-In (“Opt-In Plaintiff”) to the settlement who received bonus or commission compensation that was not included in the regular rate used to calculate overtime during the FLSA Payment Period in an amount determined as follows:
 - (a) For each whole or partial calendar month during the FLSA Payment Period, divide the total amount of all bonuses or commissions earned in that month (or partial month) by the total number of hours worked during that month (or partial month) to determine that month’s “Regular Rate Increase.”
 - (b) Multiply each month’s Regular Rate Increase by one-half to determine that month’s “Overtime Premium Rate” (which is one-half of the increase in the regular rate).
 - (c) Multiply each month’s Overtime Premium Rate by the total number of overtime hours worked during that month (or partial month) to determine that month’s “Overtime Owed.”
 - (d) Add together the Overtime Owed for each month or partial month during the FLSA Payment Period to determine the “Total Overtime Owed” for each Opt-In Plaintiff.
 - (e) Multiply the Total Overtime Owed for Each Opt-In Plaintiff by two (to account for liquidated damages) in order to determine the Settlement Award for each Opt-In Plaintiff.
2. CLA will pay Ms. Dietzen a service award subject to Court approval of not more than Two Thousand Five Hundred Dollars (\$2,500.00).
3. CLA will pay Class Counsel’s reasonable attorneys’ fees and costs not to exceed Thirty-Five Thousand Dollars (\$35,000.00).
4. Ms. Dietzen and Opt-In Plaintiffs will release all federal and state law wage and hour claims against CLA that were or could have been asserted in this action through the date of the Final Order Approving Settlement as will be more fully set forth in the Final Order Approving Settlement.
5. Ms. Dietzen, if awarded her requested service payment, shall also generally release all claims against CLA of which she knows or reasonably should know as of the date of the Final Order Approving Settlement as will be more fully set forth in the Final Order Approving Settlement.

III. YOUR RIGHT TO PARTICIPATE IN THE SETTLEMENT

If you wish to participate in the Settlement, you may opt-in by returning the enclosed “Opt-In Consent Form” completed and signed via U.S. mail, fax, or email to the Settlement Administrator:

Administrator - CLA Wage Lawsuit
BMC Group, Inc.
PO Box 90100
Los Angeles, CA 90009
Email: CLA@bmcgroup.com or Fax: 866.536.4681

You must return the “Opt-In Consent Form” on or before **March 19, 2019**. If you fail to return the completed form before the deadline date, you may not be allowed to participate in the Settlement.

IV. NO LEGAL EFFECT IN NOT PARTICIPATING IN THE SETTLEMENT

If you choose not to participate in the Settlement, your rights are not affected and you are free to file your own claim.

V. NO RETALIATION PERMITTED

Those who join this action and participate in the Settlement are protected by federal law, which prohibits CLA from terminating, discriminating, or retaliating against you due to you joining this action and participating in this Settlement. If you join this action and participate in the Settlement and believe that you have been discriminated or retaliated against, you should notify Ms. Dietzen’s attorneys.

VI. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you join this lawsuit and participate in this Settlement, your interests will be represented by Ms. Dietzen through her attorneys. Her attorneys are: Scott Luzi, Esq. and Matthew J. Tobin, Esq. of WALCHESKE & LUZI, LLC, 15850 W. Bluemound Road, Suite 304, Brookfield, Wisconsin 53005, Phone: (262) 780-1953; Fax: (262) 565-6469; Email: sluzi@walcheskeluzi.com and mtobin@walcheskeluzi.com

VII. FURTHER INFORMATION

More information about this notice, filing an “Opt-In Consent Form,” or general questions about this action can be obtained by calling, writing, or emailing Ms. Dietzen’s attorneys, whose contact information is provided above.

**** PLEASE NOTE ****

Federal law provides a two (2) year deadline for filing overtime claims (or three (3) years if an employer’s violation is willful) running from the date(s) the overtime was actually worked.