

**Notice to Prospective Class Members**

The United States Court of Federal Claims has allowed a lawsuit to proceed as a Class Action. **If you are or were a RN or LPN with the Department of Veterans Affairs, a class action may affect your rights only if you meet the following definition:**

Registered nurses and licensed practical nurses at the Richmond, Virginia VA Medical Center who had been regularly scheduled to work tours of duty at night between 6:00 p.m. and 6:00 a.m., and continuous hours, who were paid a 10 percent premium pay differential, but who did not receive payment of night premium pay at the rate of 14 percent for which they were eligible and to which they were entitled from November 23, 2012.

A Court authorized this notice. This is not a solicitation from a lawyer.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>ASK TO BE INCLUDED (Opt-In)</b>	<p><b>Participate in this lawsuit.</b></p> <p>If you are eligible and ask to be included, the Court will include you in the Class. You will be bound by any judgment or order in this case, both favorable and unfavorable. This means that if you join the Class, you will not be able to sue the United States separately for the same legal claims. You will instead have the right to a portion of any money awarded in the Court’s decision in this case.</p> <p><b><u>To participate in this lawsuit, you must submit an Opt-In Claim Form which you can file ONLINE in a safe and secure manner only at the following website:</u></b></p> <p><b><u>WWW.NIGHTPREMIUMCASE.COM</u></b></p> <p><b>YOU MUST FILE YOUR CLAIM FORM ON THIS WEBSITE BY NOVEMBER 4, 2024.</b></p>
<b>DO NOTHING</b>	<p><b>Keep the right to sue the United States separately.</b></p> <p>If you do nothing, the Court will not include you in the Class. You will not receive any money as a result of any Court order in this case and you will not be bound by any order or judgment. You will keep the right to hire your own lawyer or proceed without counsel to sue the United States separately. If you wish to pursue your claim separately from the Class Action, you should discuss with your own attorney the fact that, if you do not file your own lawsuit with an appropriate federal court within the applicable statute of limitations, your claim may be time-barred and dismissed.</p>

## WHAT THIS NOTICE CONTAINS

**BASIC INFORMATION..... PAGE 3**

1. Why did I get this notice?
2. What is this lawsuit about?
3. What is a class action and who is involved?
4. Why is this lawsuit a class action?

**YOUR RIGHTS AND OPTIONS ..... PAGE 4**

5. What happens if I submit an Opt-In Claim Form?
6. How do I Opt-In to this Class Action?
7. What if I change my mind about opting in?
8. What happens if I do nothing?

**THE LAWYERS REPRESENTING YOU ..... PAGE 4**

9. Do I have a lawyer in this case?
10. Should I get my own lawyer?
11. How will the Class Counsel be paid?

**GETTING MORE INFORMATION ..... PAGE 5**

Are more details available?

## BASIC INFORMATION

### 1. Why did I get this notice?

This notice explains that the Court has allowed, or “certified,” a Class Action lawsuit that may affect you, if you meet the above definition for eligibility. You have legal rights and options that you may exercise before the Court issues an award. Judge Richard A. Hertling of the United States Court of Federal Claims is assigned to this Class Action. The lawsuit is known as *Gutensohn et al. v. United States*, Civil Action No. 18-1804C.

### 2. What is this lawsuit about?

This lawsuit is about whether current and former RNs and LPNs who meet the definition for eligibility are entitled to back pay.

### 3. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” All the Class Members like them who brought the lawsuit are called the Plaintiffs. In this case, the Government (named as the United States of America) is the Defendant. One count resolves the issues for everyone in the Class who submit an Opt-In Claim Form online no later than November 4, 2024 at: [WWW.NIGHTPREMIUMCASE.COM](http://WWW.NIGHTPREMIUMCASE.COM). Those people who do not submit an Opt-In Claim Form online will be excluded from the Class in this case.

### 4. Why is this lawsuit a class action?

The Court is considering whether current and former RNs and LPNs who meet the definition for eligibility are entitled to back pay.

The Court decided that this lawsuit can proceed as a class action because it meets the requirements of Rule 23 of the Rules of the United States Court of Federal Claims (“RCFC”) because:

- The Class is so numerous that joinder of all members is impracticable;
- There are questions of law or fact common to the Class;
- The claims of the Class Representatives are typical of the claims of the Class;
- The Class Representatives and the Class Counsel representing the Class will fairly and adequately represent the Class’ interests;
- The common legal questions and facts predominate over any questions affecting only individual Class members; and
- This Class Action will be more efficient than having many individual lawsuits.

For more information, see the Court’s Order, which is available at the website [www.NIGHTPREMIUMCASE.COM](http://www.NIGHTPREMIUMCASE.COM)

## YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class by submitting an Opt-In Claim Form ONLINE or do nothing and be excluded from the Class.

### 5. What happens if I submit an Opt-In Claim Form?

By filing online an Opt-In Claim Form at [www.NIGHTPREMIUMCASE.com](http://www.NIGHTPREMIUMCASE.com), you will be added to the lawsuit, and you will recover the amount, if any, owed to you in premium pay, plus interest.

### 6. How do I Opt-In to this Class Action?

If you wish to participate in this case and share in any award from this case, you must file ONLINE an Opt-In Claim Form. You can file an Opt-In Claim Form safely and securely ONLINE at [www.NIGHTPREMIUMCASE.com](http://www.NIGHTPREMIUMCASE.com). You must file your Opt-In Claim Form online by November 4, 2024.

### 7. What if I change my mind about opting in?

The Court may, at its discretion, permit a member who previously opted-in to withdraw their inclusion as a Class Member.

### 8. What happens if I do nothing?

If you fail to submit an Opt-In Claim Form ONLINE through the website [www.NIGHTPREMIUMCASE.com](http://www.NIGHTPREMIUMCASE.com) by NOVEMBER 4, 2024, you will be barred from participating as a Class Member in this case or any recovery from it. Depending on your particular circumstances, you may or may not be able to pursue your own claim against the United States independently of this Class Action case. If you do decide to pursue your claim independently, outside this Class Action, we encourage you to do so immediately or consult with your counsel immediately because certain statutes of limitations may bar or limit your claims.

## THE LAWYER IN THIS CASE

### 9. Do I have a lawyer in this case?

The Court decided that Ira M. Lechner is qualified to represent you and all Class Members. Mr. Lechner has been appointed as “Class Counsel.” Mr. Lechner is experienced in handling similar cases against the Government and other employers.

### 10. Should I get my own lawyer?

If you opt-in to this Class Action, Class Counsel will act as attorney on your behalf in this action. If you prefer, you may instead retain your own attorney to enter your appearance in this action. If you do decide to pursue your claim independently, outside this Class Action, we encourage you to do so immediately or consult with your counsel immediately because certain statutes of limitations may bar or limit your claims.

## **11. How will the Class Counsel be paid?**

Class Counsel will be paid fees and allowed to recover his costs only if, and to the extent, awarded by the Court. Those fees and costs, if any, may be paid by the United States. In no event will you be asked to pay Class Counsel his fees and costs. In the event you retain your own attorney, you will be responsible for paying any fees associated with their representation.

## **GETTING MORE INFORMATION**

### **12. Are more details available?**

The pleadings and other records in this litigation may be examined at any time during regular business hours at the Office of the Clerk of the Court of Federal Claims at 717 Madison Pl., N.W., Washington, D.C. 20005. Pleadings and other records in this litigation can also be accessed online at [www.NIGHTPREMIUMCASE.COM](http://www.NIGHTPREMIUMCASE.COM) which contains all the information about this case and the Opt-In Claim Form that you can use to file your claim.