

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

KRISTIN SWEARINGEN,

Plaintiff,

v.

AMAZON.COM SERVICES, INC., et al.,

Defendant.

Case No. 3:19-cv-01156-JR

NOTICE

Opt Out Deadline: January 13, 2023, by 4:00 p.m. (PT)

Claim Deadline: January 13, 2023, by 4:00 p.m. (PT)

Objection Deadline: February 6, 2023, by 4:00 p.m. (PT)

Hearing Date: March 1, 2023, at 1:30 p.m. (PT)

NOTICE TO CLASS OF (I) PROPOSED SETTLEMENT OF CLASS ACTION CONCERNING STATE WAGE-AND-HOUR CLAIMS; (II) AWARD OF ATTORNEY FEES, COSTS, AND LITIGATION EXPENSES TO CLASS COUNSEL AND SERVICE PAYMENT TO CLASS REPRESENTATIVE; (III) DATE OF COURT HEARING FOR FINAL APPROVAL OF PROPOSED SETTLEMENT AND AWARD OF ATTORNEY FEES, COSTS, AND LITIGATION EXPENSES AND SERVICE PAYMENT, (IV) RIGHT TO OPT OUT OF OR OBJECT TO THE SETTLEMENT AND CLASS COUNSEL'S REQUEST FOR ATTORNEY FEES, COSTS, AND LITIGATION EXPENSES AND SERVICE PAYMENT AND TO APPEAR AT COURT HEARING, AND (V) **REQUIREMENT TO SUBMIT A CLAIM FORM IN ORDER TO RECEIVE ADDITIONAL SHARE OF SETTLEMENT PAYMENT, IF ELIGIBLE**

**If you were employed in Oregon by Amazon.com Services, Inc., Amazon.com Inc., and/or Amazon.com.dedc, LLC and received a paycheck on or after December 20, 2012 and on or before April 15, 2019, you could get money from a class action settlement. Please read this notice carefully.**

**Introduction**

1. There is currently pending in the United States District Court for the District of Oregon (the "Court") an action brought under state wage and hour law (the "Action"), case number 3:19-cv-01156-JR. The plaintiff, Kristin Swearingen (the "Class Representative") and Amazon.com Services LLC and Amazon.com, Inc. (collectively, "AMAZON" and together with the Class Representative, the "Parties"), have reached a proposed settlement to resolve the Class Litigation between them, memorialized in a Settlement and Release Agreement (the "Settlement"), under which the benefits described below will be provided to the members of the Class.

2. This notice constitutes notice to the Class of (a) the proposed Settlement of the Action for a total of \$18,000,000, (b) the request of Class Counsel (defined below) for the award of attorney fees, costs, and litigation expenses of one third of the Gross Settlement Fund, payment to the Settlement Administrator of reasonably anticipated settlement expenses of \$150,000, and service payment to the Class Representative of \$20,000, (c) the date of the Court hearing for Final Approval of the proposed Settlement and award of Class Counsel's attorney fees, costs, and litigation expenses and the service payment, (d) the right of each member of the Class to opt-out, object to, or make a claim in the Settlement and Class Counsel's request for attorney fees, costs, and litigation expenses and service payment and to appear at the hearing at which the Court will consider the final approval of the Settlement and Class Counsel's request for attorney fees, costs, and litigation expenses and the service payment, and the required procedures for doing so, and (e) the requirement that eligible Class Members submit a Claim Form in order to receive a share of the Claimable Funds. If you stay in the class, you will be legally bound by all class orders and judgments, lose the ability to sue (or continue to sue) AMAZON, receive your share of the Guaranteed Funds, and (if you submit a Claim Form and are eligible) receive your share of the Claimable Funds. **If you wish to receive a share of the Claimable Funds, you have to submit a Claim Form, as described below in section 16, How to Submit a Claim Form.** If you opt out of the class, you will not receive any money or benefits awarded to the class, but you will not be bound by the class orders or judgments, and you will retain the ability to sue (or continue to sue) AMAZON. If you object to the settlement, the Court will consider your objections, but you will remain a Class Member and be bound by the class orders or judgments.

3. You do not need to make a claim to receive your Guaranteed Funds, but you should update your mailing address at [www.AmazonSwearingenSettlement.com](http://www.AmazonSwearingenSettlement.com) if you have moved since you worked at Amazon. In order to claim your share of the Claimable Funds, if eligible, you must submit a Claim Form (see section 16 below on **How to Submit a Claim**).

### **Description of the Class Litigation**

4. The Class Representative filed this Action, on behalf of herself and purportedly on behalf of the putative Class Members, asserting that AMAZON violated wage and hour laws by allegedly (a) rounding employees' starting and stopping times to the detriment of the employees, (b) failing to pay for clocked-out rest periods and meal periods shorter than 30 minutes, and (c) failing to promptly pay all wages due and owing on termination (collectively, the "Claims").

5. In general, Oregon law requires payment for rest periods and meal periods of less than 30 minutes, and requires employers to pay for all hours worked and to promptly pay all wages due and owing on termination.

6. AMAZON denies Class Representative's allegations in their entirety.

7. The Complaint, Answer, and other contentions of the Class Representative and AMAZON raise complex legal and factual issues regarding the application of wage and hour laws, the various cases and regulations interpreting such laws, and the viability of the Action against AMAZON, both individually and as a class claim. The Court has not yet ruled on the merits of the Class Representative's claims, nor has it finally determined all aspects of whether the Action may proceed as a class action.

8. The trial of this matter would likely be lengthy and complex, adding to the cost and potential delay. All Parties recognize that the outcome of the litigation with respect to all the issues is uncertain. To avoid extensive, costly, and uncertain litigation over these issues, the Parties have agreed to the proposed Settlement presently being considered by the Court.

9. AMAZON has identified you, to the best of its knowledge, information and belief, as one of the individuals who are currently within the Class definition. There are two classes, each with one subclass: (a) the Rounding Class, consisting of current and former AMAZON employees who performed work in the DPD1, PDX5, PDX9, and/or UOR1 facilities in Oregon in any workweek the regular payday for which was on or after December 20, 2012 and on or before April 15, 2019 (the "class period"), during which they lost time due to Amazon's rounding policy; (a)(1) the Rounding Penalty Subclass, consisting of Rounding Class Members whose employment terminated on or after December 20, 2015 and on or before April 15, 2019; (b) the Unpaid Break Class, consisting of current and former AMAZON employees who performed work at any Oregon facility in any workweek the regular payday for which was on or after December 20, 2012 and on or before April 15, 2019, during which they had a clocked-out break (i.e., either a rest period or a meal period) of fewer than 30 minutes; and (b)(1) the Unpaid Break Penalty Subclass, consisting of Unpaid Break Class Members with a clocked-out break (i.e., either a rest period or a meal period) of fewer than 30 minutes in any workweek the regular payday for which was on or after December 20, 2015 and on or before April 15, 2019.

### **The Proposed Settlement**

10. The following description of the proposed Settlement is only a summary. In the event of any difference between this summary and the terms of the Settlement, the terms of the Settlement shall control. You may secure a copy of the complete Settlement, the request for settlement approval, the motion for attorney's fees, costs, and litigation expenses and the Class Representative service payment and supporting documentation, and other relevant case documents from the Settlement Administrator or at [www.AmazonSwearingenSettlement.com](http://www.AmazonSwearingenSettlement.com). The terms of the Settlement relevant to the Class Members may be summarized as follows:

### **Summary of Settlement Terms**

11. The Class shall be granted a Gross Settlement Amount of \$18,000,000 (the "Settlement Fund"). This is made up of Guaranteed Funds and Claimable Funds. Each Class Member will receive his/her/their portion of the Guaranteed Funds, and his/her/their portion of the Claimable Funds, if applicable, as discussed below. The Class Representative shall request a service award of \$20,000 for her service in this matter in her capacity as such (the "Service Payment"). Class Counsel will request attorney fees, costs, and litigation expenses in the amount of one-third of the Gross Settlement Fund. Any un-awarded attorney fees/costs/litigation expenses and/or Service Payment will be redistributed to the Class. The Settlement shall not become effective if the Court does not approve it.

12. If any Class Member opts out of this Settlement, their share of the Guaranteed funds will be deemed “Residual Funds” and their share of Claimable Funds, if any, shall be deemed “Unclaimed Funds.” If the Court awards less than the requested amounts for attorney fees/costs/litigation expenses and/or service payment, those funds shall be distributed to the Class Members. If any Settlement Funds remain, including returned notices/settlement checks, settlement checks which are not deposited or negotiated within 60 calendar days after their date of issuance, accrued interest, any unspent portion of the funds allocated for Settlement Administration Costs, and any funds remaining as a result of rounding or fractions of cents, any such allocation shall be deemed “Residual Funds.” Residual Funds shall be donated to the Northwest Workers Justice Project, a local 501(c)(3) nonprofit dedicated to employee rights education and enforcement, as a court-ordered *cy pres* distribution. Unclaimed Funds will revert to Amazon, except that Amazon will pay a minimum of \$6,000,000 to the class members regardless of how many of them file Claim Forms for Claimable Funds.

#### **Class Counsel’s Recommendation**

13. Class Counsel recommends the Settlement, believing that it is fair, reasonable, and adequate to the Class.

#### **Class Counsel’s Fees, Costs, and Litigation Expenses**

14. Under the proposed Settlement, and subject to final Court approval, Class Counsel shall request attorney fees, costs, and litigation expenses equal to one third of the Gross Settlement Fund. You may object to the request of Class Counsel for attorney fees, costs, and litigation expenses by filing an objection within the time and in the manner specified below. If the Court approves an attorney fees, costs, and litigation expenses award of lower than that requested, it will not affect the viability of the Settlement, and any un-awarded portion of the amount sought will be disbursed among the Class Members.

#### **Release of Claims and Effect of Approval of Settlement Agreement**

15. Upon final approval of the Settlement by the Court, the Settlement will result in Class Members who do not timely opt out releasing any and all non-FLSA claims, counterclaims and/or causes of action against AMAZON, whether arising before or during the class period, of any kind or nature in any way related to the facts or claims that were alleged or that had an identical factual predicate to the claims alleged in the Action. It will also result in a release by the Class Members who submit a Claim Form of all FLSA claims, counterclaims and/or causes of action against AMAZON, whether arising before or during the class period, of any kind or nature in any way related to the facts or claims that were alleged or that had an identical factual predicate to the claims alleged in the Action. The Release of Claims is more fully explained in the Settlement Agreement.

#### **How to Submit a Claim**

16. If eligible, you will receive your share of the Guaranteed Funds, whether or not you submit a Claim Form. To also receive your share of the Claimable Funds, if eligible, in addition to your share of the Guaranteed Funds, you will need to submit a Claim Form on or before **January 13, 2023**. You may do so by mailing, emailing, or faxing the enclosed Claim Form to the Settlement Administrator, or on the secure website provided for this case, [www.AmazonSwearingenSettlement.com](http://www.AmazonSwearingenSettlement.com). By submitting a Claim Form, or negotiating any settlement check associated with this case, you are waiving any right to proceed in any fashion for the claims released in this case.

#### **How to Opt-out or Object**

17. If you believe that the proposed Settlement is unfair or inadequate or are dissatisfied with the amounts approximated in Paragraph 3 above or feel that Class Counsel’s request for attorney fees, costs, and litigation expenses and/or the Service Payment (which will be posted at [www.AmazonSwearingenSettlement.com](http://www.AmazonSwearingenSettlement.com) no later than January 20, 2023) should not be approved, you may object to the Settlement and/or Class Counsel’s request for attorney fees, costs, and litigation expenses and/or the Service Payment by mailing by first-class mail, a detailed written statement bearing the caption of this action shown above on the first page stating your comment or objection, to (a) the Settlement Administrator at Amazon Swearingen Settlement, P.O. Box 2004, Chanhassen, MN 55317-2004, and (b) Mark O. Hatfield United States Courthouse, 1000 S.W. Third Ave., Portland, OR 97204. Objections must be mailed so as to be received no later than **February 6, 2023**, and must include the caption of the action and your name, address, and telephone number together with a detailed statement of the basis for your objection and whether you wish to be heard personally or by counsel at the final hearing at which the Parties will be requesting binding Court approval of the Settlement and the award of attorney fees, costs, and litigation expenses and the service payment, as described above. If you object to the settlement, you may not opt out of the settlement and you will be bound by the Judge’s rulings and orders.

18. You may also appear in person or by counsel at the final hearing described below.

19. If you choose not to be bound by this Settlement Agreement and do not wish to share in any of the benefits described herein, you may opt out of the Class by submitting a written, signed, and dated statement of your wish to opt out (including the date, your name, year of birth, last four digits of Social Security Number or Tax ID Number, and signature, as well as a statement stating “I wish to opt out of the *Swearingen v. AMAZON* settlement.”) by first-class mail, to the Settlement Administrator: Amazon Swearingen Settlement, P.O. Box 2004, Chanhassen, MN 55317-2004. The written, signed, and dated opt-out statement must be received no later than January 13, 2023 (the “Opt-Out Deadline”). All requests for exclusion received after the Opt-Out Deadline will not be effective, and such person will be a member of the Class.

**Final Hearing to Approve Settlement and Award Attorney fees, costs, and litigation expenses and Service Payment**

20. The hearing for final consideration and approval of the Settlement and the award of attorney fees, costs, and litigation expenses to Class Counsel and service payment to the Class Representative is scheduled to take place on March 1, 2023 at 1:30 p.m. at the Mark O. Hatfield United States Courthouse, 1000 S.W. Third Ave., Portland, OR 97204. That hearing may be changed, held remotely, or cancelled without further notice. If you wish to determine if the hearing is changed or cancelled, you may contact Settlement Administrator at the address shown herein.

**Other Information**

21. All requests for more information, including a copy of the Settlement Agreement, should be sent to the Settlement Administrator at:

Amazon Swearingen Settlement  
P.O. Box 2004  
Chanhassen, MN 55317-2004  
Toll-free: Phone: 1-877-801-1655  
Email: [info@AmazonSwearingenSettlement.com](mailto:info@AmazonSwearingenSettlement.com)

22. While the Court has approved the sending of this notice, that does not indicate, and is not intended to indicate, that the Court has any opinion as to the respective claims or defenses asserted by the Parties in the Class Litigation.

**Please do not call the Court concerning this matter.**



*Scan to visit the Settlement Website.*