

**Even If You Signed Cerner’s Arbitration Agreement, You Are Still
Eligible To Participate In This Settlement**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

NOTICE OF CLASS SETTLEMENT

This is not a solicitation from a lawyer. A Federal Court has ordered this Notice.

TO: <<First_Name>> <<Last_Name>>

YOUR ELIGIBLE SETTLEMENT AMOUNT: <<ELIGIBLE SETTLEMENT AMOUNT>>

This notice is to inform you that the Parties have reached a Settlement Agreement (“Settlement”) in the wage and hour lawsuit entitled *Fred Speer et al. v. Cerner Corporation*, No. 4:14-cv-00204-FJG (W.D. Mo.). You were previously notified that the Court certified three Missouri state law classes (described in Paragraph 2 below), and you are a member of one or more of the Missouri classes.

This Notice is to inform you about the Settlement, including your right to return a claim form to receive a share of the settlement funds for claims under Missouri law if the Settlement is approved. **Your legal rights are affected and you have a choice to make in this action now:**

YOUR LEGAL RIGHTS AND OPTIONS	
SUBMIT A CLAIM FORM	This is the <u>only</u> way to receive money in this case.
EXCLUDE YOURSELF	Get no payment from this lawsuit. But, you will retain any rights you may have regarding the claims in this case. CAUTION: If you wish to pursue your own, separate legal action for the claims in this lawsuit, you should consult an attorney regarding the applicable statute of limitations prior to excluding yourself. Many of the claims in this lawsuit cannot be pursued in a separate legal action because, unless that lawsuit is already on file, the claims may be time barred.
OBJECT	Write the Court about why you do not like the Settlement.
ATTEND THE HEARING	Ask to speak to the Court about the fairness of the Settlement.
DO NOTHING	Receive no money. Give up certain rights.

This Notice explains your options. Please read it carefully. To make a claim or to exclude yourself from the Settlement, you must act before **April 30, 2018**.

1. WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs Fred Speer and Mike McGuirk (“Class Representatives”) allege Cerner Corporation (and/or its predecessors, successors, subsidiaries, and affiliated entities, collectively “Cerner”) violated the Fair Labor Standards Act and Missouri state law by: (i) failing to timely pay salaried, non-exempt employees their overtime wages, (ii) failing to properly calculate overtime wages to non-exempt employees who earned certain types of additional compensation, and (iii) failing to comply with the requirements for paying salaried, non-exempt employees’ overtime on a fluctuating workweek basis (i.e. half-time overtime instead of time-and-a-half overtime). Cerner denies these allegations and has also set forth affirmative defenses. Cerner wishes to settle this litigation to avoid costly and time-consuming litigation, but does not admit to any wrongdoing or liability.

2. WHO IS INCLUDED IN THE SETTLEMENT?

The Court previously certified two classes under the federal Fair Labor Standards Act (“FLSA”). Court-approved notice was issued to eligible employees, but you did not opt in to the federal classes. Later, the Court certified the following three classes to pursue claims for untimely and improperly calculated overtime wages under Missouri state law:

All persons employed by Cerner in Missouri, at any time between **March 5, 2012–Present**, and:

- (1) Whose overtime was not paid on the next regular payday for the period in which the overtime work was performed (“Late Overtime Class”); OR
- (2) Who received overtime compensation that was calculated based upon a “regular rate” of pay that excluded On-Call Pay, Wellness Incentive Bonuses, Night Differentials, Security Differentials—ARM, Retro Wellness Incentives, and/or Holiday Differential Pay (“Miscalculated Overtime Class”); OR
- (3) Who were purportedly compensated based upon the fluctuating workweek method of pay and: (i) whose overtime compensation was not paid on the next regular payday for the period in which the overtime work was performed; and/or (ii) who were paid additional compensation beyond their “fixed” salary (“Fluctuating Workweek Class”).

Cerner payroll records indicate you are a member of one or more of these three classes and you did not exclude yourself when previously notified that the classes had been certified. This Settlement is designed to compensate you with money for both your federal FLSA and Missouri state law wage claims as explained in Paragraph 6 below.

3. WHAT ARE THE BENEFITS AND TERMS OF THE SETTLEMENT?

Cerner has agreed to pay \$4,500,000 (“Settlement Total Available to Class”), plus attorneys’ fees and costs and administration costs, to resolve the class claims. **If you elect to return a claim form**, and if the Court approves the Settlement, you will receive your Eligible Settlement Amount reflected on page 1 of this Notice of Class Settlement.

Your Eligible Settlement Amount includes a Minimum Allocation of \$250 (intended to compensate for Miscalculated Overtime Class claims), plus your pro rata share of the Settlement Total Available to Class, minus Service Awards, minus the total Minimum Allocation (“Net Settlement Total Available to Class”). This pro rata formula is determined as follows:

- (i) **Rule 23 Class Members & Missouri-based FLSA Opt-in Plaintiffs.**
 - a) Rule 23 Late Overtime Class Members and FLSA Opt-in Plaintiffs who worked in Missouri shall each receive one (1) point for each overtime dollar Cerner paid to them on a fluctuating workweek basis (e.g. while designated as “SNE” pay group) between March 5, 2012–June 3, 2014; plus
 - b) Rule 23 Fluctuating Work Week Class Members and FLSA Opt-in Plaintiffs who worked in Missouri who earned ON3, NDF, or ARM at any time since March 5, 2012, shall each receive three (3) additional points for each overtime dollar Cerner paid to them on a fluctuating workweek basis (e.g. while designated as “SNE” pay group) between March 5, 2012–April 8, 2016.

(ii) **FLSA Opt-in Plaintiffs Outside Missouri.**

- a) FLSA Late Overtime Opt-in Plaintiffs who work(ed) exclusively outside of Missouri, each receive one (1) point for each overtime dollar Cerner paid to them on a fluctuating workweek basis (e.g. while designated as “SNE” pay group) between September 7, 2012–June 3, 2014; plus
- b) FLSA Opt-in Plaintiffs who work(ed) exclusively outside of Missouri, who earned ON3, NDF, or ARM at any time since September 7, 2012, shall each receive three (3) additional points for each overtime dollar Cerner paid to them on a fluctuating workweek basis (e.g. while designated as “SNE” pay group) between September 7, 2012–April 8, 2016.

Pro Rata Share. The points for all Rule 23 Class Members and FLSA Opt-in Plaintiffs are totaled, and each individual’s total points are divided by the total number of all points to determine his/her percentage allocation of the Net Settlement Total Available to Class. (“Pro Rata Share”).

One half of each Class Member’s settlement payment is considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes and any other withholdings required by law, and will be reported on an IRS Form W-2. The remaining one-half of the settlement payment is considered compensation for interest and liquidated damages, will not be subject to payroll withholdings, and will be reported on an IRS Form 1099. Please consult with your accountant or tax advisor regarding the tax consequences of the settlement payment. Further, Class Members’ settlement payments do not trigger any additional benefits or liabilities under Cerner’s benefit plans, including any retirement plans in which Class Members may participate.

4. WHO IS CLASS COUNSEL?

The Court appointed the following law firms and attorneys as Class Counsel to represent the Rule 23 Class members:

Tracey F. George
Brett A. Davis
DAVIS GEORGE MOOK LLC
1600 Genessee, Suite 328
Kansas City, Missouri 64102
Tel: (816) 569-2629
Fax: (816) 447-3939
tracey@dgmlawyers.com
brett@dgmlawyers.com

Patrick Reavey
Kevin C. Koc
REAVEY LAW LLC
1600 Genessee, Suite 303
Kansas City, Missouri 64102
Tel: (816) 474-6300
Fax: (816) 474-6302
patrick@reaveylaw.com
kkoc@reaveylaw.com

5. HOW MUCH ARE ATTORNEYS’ FEES, EXPENSES, AND THE SERVICE AWARDS?

Class Counsel has pursued the lawsuit on a contingent basis and has not received any payment of fees or any reimbursement of their out-of-pocket expenses related to the recovery on behalf of the Class. As part of the settlement, subject to Court Approval, Class Counsel will apply for fees in an amount not to exceed \$2,000,000, including Class Counsel’s costs and expenses. Under this settlement, Cerner will pay Class Counsel’s attorneys’ fees, costs and expenses. Participating Class Members will not be required to make any payments to Class Counsel for attorneys’ fees or other litigation costs from their individual settlement amounts. Class Counsel will also ask the Court to approve service awards to the Class Representatives in an amount not to exceed \$7,500 each. Class Members may object to the terms of the settlement, to Class Counsel’s request for attorneys’ fees and expenses, and/or to the service awards to the Class Representatives, as explained in Paragraph 9(c) below.

6. WHAT HAPPENS IF THE COURT APPROVES SETTLEMENT?

If the Court approves the proposed Settlement, the Court will enter a judgment that will dismiss the Litigation with prejudice on the merits as to all Class Members who do not exclude themselves. This means that Class Members will be barred from bringing their own lawsuits for recovery against Cerner as follows:

- **Class Members who do not exclude themselves from the Settlement and who return signed Claim Forms** will receive approved Settlement money proceeds, and be bound by the “Federal Wage Claims Release” and “Missouri State Wage Claims Release” (see below for a complete description of released

claims) that arose in the course of such Class Member's employment with Cerner as a non-exempt employee between March 5, 2012, and the date of the Final Settlement Approval Order ("Release Period").

- **Class Members who do nothing (e.g., do not exclude themselves from the Settlement, and who do not return signed Claim Forms)** will be bound by the "Missouri State Wage Claims Release" and release those claims that arose in the course of such Class Member's employment with Cerner during the Release Period, but they will not be bound by the "Federal Wage Claims Release," and those federal claims, if any, will not be released. Class Members who do nothing will not receive any Settlement money proceeds.
- **Class Members who validly and timely request exclusion from the Settlement** will not release any federal or state wage claims, if any, and will not receive any Settlement money proceeds.

RELEASE OF CLAIMS

Released Claims include any and all claims, rights, unknown claims, demands, liabilities, costs and causes of action arising during the Release Period that in any way related to employment with Cerner and that Plaintiffs alleged in this lawsuit, or which Plaintiffs could have alleged in this lawsuit, pursuant to either Missouri state law ("State Wage Claims Release") or federal law ("Federal Wage Claims Release"), including but not limited to the following:

- (1) Any and all claims for the failure to timely pay overtime wages and associated penalties;
- (2) Any and all claims for damages or penalties under federal or state laws due to failure to include bonus or other additional compensation payments in regular rate of pay for overtime calculations;
- (3) Any and all claims for failure to meet the requirements for utilizing the fluctuating workweek method for calculating and paying overtime wages;
- (4) Any and all claims for penalties, including without limitation liquidated and/or punitive damages relating to all claims released in subsections (1)–(3); and
- (5) Any and all claims for interest, costs, attorneys' fees, equitable relief, or other types of available recovery relating to all claims released in subsections (1)–(4).

The "Federal Wage Claims Release" includes, but is not limited to, the release of any and all federal wage-and-hour claims, rights, demands, liabilities, and causes of action of every nature and description, whether known or unknown (including those within the scope of pending litigation, arbitration, and any other kind), pursuant to the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq., (the "FLSA") and the Portal to Portal Act, 29 U.S.C. § 251 et seq., arising during the Release Period, of the type described in Paragraphs 6(1)–6(5) above. These federal claims will be released if you submit a claim form now, even if you did not previously opt in to the federal law classes.

The "Missouri State Wage Claims Release" includes, but is not limited to, the release of any and all Missouri state law claims, rights, demands, liabilities, and causes of action of every nature and description, whether known or unknown (including those within the scope of pending litigation, arbitration, and any other kind), arising during the Release Period, of the type described in Paragraphs 6(1)–6(5) above, including without limitation statutory, constitutional, contractual, or common law claims for wages, damages, attorneys' fees, unpaid costs, restitution, penalties, interest, or equitable relief.

Settlement Class Members who did not previously opt into the FLSA class and who do not return a Claim Form opting into this Settlement (which includes federal claims) will only be bound by the "Missouri State Wage Claims Release," but not the "Federal Wage Claims Release." Settlement Class Members who return a signed Claim Form electing to participate in one or more Settlement Claims (as described in Paragraph 3 above) will be bound by both the "Missouri State Wage Claims Release" and the "Federal Wage Claims Release." The Parties negotiated this Settlement to provide compensation, to those who elect to participate, for both state and federal claims. The recovery available for your Missouri state law claims is wholly inclusive of the recovery available for your federal claims. Plaintiffs and Class Counsel agree that this Settlement represents a reasonable compromise of both state and federal claims.

Settlement Class Members who wish to retain all their state and federal rights to pursue their own separate lawsuit for claims described in Paragraph 6(1)–6(5), if any, must submit a timely request for exclusion (see below).

7. WHAT HAPPENS IF THE COURT DOES NOT APPROVE THE SETTLEMENT?

If the Court does not approve the proposed Settlement, the case will proceed as if no settlement has been attempted and there can be no assurance that the class will recover more than is provided for in this Settlement or anything at all.

8. WHEN IS THE FAIRNESS HEARING?

A hearing will be held before the Honorable Fernando J. Gaitan, District Court Judge, in the United States District Court for the Western District of Missouri on **June 13, 2018 at 10:00 AM** at Charles Evans Whittaker U.S. Courthouse, 400 E. 9th Street, Kansas City, Missouri 64106, Courtroom 7C. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as a Service Award to the Class Representatives. The time and date of this hearing may be changed without further notice.

If you decide to participate in the settlement, you do not need to attend the fairness hearing to receive money from any settlement the Court approves.

9. WHAT ARE MY OPTIONS REGARDING THE SETTLEMENT?

If you are receiving this Notice, you have the following options:

- a. **Return a Signed Claim Form to Participate:** Enclosed is a Settlement Claim Form. You may elect to claim your Eligible Settlement Amount, reflected on page 1 of this Notice, by following the instructions on the enclosed Claim Form, and signing and returning the completed form in the enclosed, postage-paid envelope, no later than **April 30, 2018**.

By signing and returning a Claim Form, you acknowledge that you wish to participate in this Settlement and receive money proceeds approved by the Court and you acknowledge that your participation will release BOTH state and federal law claims. If the Court approves the Settlement, you will be eligible to receive a check for your Eligible Settlement Amount, less applicable tax and withholdings.

Cerner will not be informed of the identity of those who choose to participate.

- b. **Request to be Excluded:** If you wish to be excluded from the Settlement, you must timely submit a request for exclusion. To be effective, the request for exclusion must (i) include your full name, address, and telephone number, (ii) include your Cerner Associate I.D. number, and (iii) specifically state your desire to be excluded from the settlement in the case *Fred Speer and Mike McGuirk, individually and on behalf of others similarly situated v. Cerner Corporation*, Case No. 4:14-cv-00204-FJG. Your request must be postmarked or received by **April 30, 2018** and mailed to **Cerner Overtime Settlement, c/o Analytics, P.O. Box 2006, Chanhassen, MN 55317-2006**. **If you exclude yourself, you will not receive any monies from the settlement.**

Failure to include the required information or to timely submit your request will result in your remaining a member of the Class and being bound by any Settlement and final judgment. If you validly and timely request exclusion from the Settlement, you will not be bound by any final judgment, and you will not be precluded from instituting or prosecuting any individual claim you may otherwise have against Cerner related to the subject matter of this Lawsuit. **CAUTION: If you wish to pursue your own, separate legal action for the claims listed above, you should consult an attorney regarding the applicable statute of limitations prior to excluding yourself from this lawsuit. Many of the claims in this lawsuit cannot be pursued in a separate legal action because, unless that lawsuit is already on file, the claims may be time barred.**

- c. **Object:** If you are a Class Member and you do not request to be excluded, you may object to the terms of the Settlement and/or to Class Counsel's request for attorneys' fees and expenses, and/or to the Service Awards to Class Representatives. If you object and the Settlement is approved, you will be barred from bringing your own individual lawsuit asserting claims related to the matters referred to in the Litigation, and you will be bound by the Final Judgment and release and all Orders entered by the Court. You may, but need not, enter an appearance through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

If you object to the Settlement and/or to the Class Counsel's request for attorneys' fees and expenses, and/or to the Service Awards to the Class Representatives, you must, on or before **April 30, 2018**: (1) file with the Clerk of the United States District Court for the Western District of Missouri, and (2) serve upon Tracey George, Davis George Mook LLC, 1600 Genessee St., Suite 328, Kansas City, MO 64102 (Class Counsel), and to Amy Crouch, Shook Hardy & Bacon L.L.P., 2555 Grand Blvd., Kansas City, MO 64108 (Counsel for Cerner), a written objection including: (a) your full name, address, and telephone number, (b) your Cerner Associate I.D. number, (c) a written statement of all grounds for the objection accompanied by any legal support for your objection, (d) copies of any papers, briefs, or other documents upon which the objection is based, (e) a list of all persons who will be called to testify in support of the objection, (f) a statement of whether you intend to appear at the Fairness Hearing, and (g) your signature, even if you are represented by counsel. If you intend to appear at the Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing you who will appear at the Fairness Hearing. Settlement Class Members who do not timely make their objection in this matter will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement.

10. ARE THERE MORE DETAILS AVAILABLE?

For additional information you may (1) contact the Settlement Administrator at 866-472-5388, (2) view the entire Settlement Agreement on Class Counsel's website at www.dgmlawyers.com/cernersettlement or (3) contact Class Counsel by (a) calling Tracey George at Davis George Mook LLC at 816-569-2629, or Kevin Koc at Reavey Law LLC at 816-474-6300, or (b) sending written correspondence to Davis George Mook LLC, ATTN: Cerner Settlement, 1600 Genessee St., Suite 328, Kansas City, MO 64102.

DATED:

BY ORDER OF THE COURT
Clerk of the Court