

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JOSEPH HOPKINS, et al.,	§	CIVIL ACTION NO. 4:05-CV-332-Y
vs.	§	
	§	<u>Consolidated with Civil Actions:</u>
CORNERSTONE AMERICA, et al.	§	4:05-CV-333-Y; 4:05-CV-334-Y
	§	

NOTICE OF PENDENCY OF COLLECTIVE ACTION LAWSUIT

TO: All persons who worked for Cornerstone America, a division of Mid-West National Life Insurance Company of Tennessee, from May 26, 2002 to the present, as a District, Regional, or Area sales leader/manager.

RE: Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §201, *et seq.*

Introduction

The purpose of this Notice is to: (1) inform you of the existence of a lawsuit in which you are potentially “similarly situated” to the named Plaintiffs; (2) advise you of how your rights may be affected by this lawsuit; and (3) instruct you on the procedure for participating in this lawsuit. This Notice is not an expression by the Court of any opinion as to the merits of any claims, counterclaims, or defenses asserted by any party to this action.

Description of the Lawsuit

In May 2005, Joseph Hopkins, Mark Croucher, Terrence Johanesen, Jeff Gessner, Scott Roughen, David Young, Norman E. Campbell, Donald Klein, Bob Howell, Steve Woodhead, Sherrie Blair Lewis, Andrew Bowman, and Mark Mann (“Plaintiffs”) brought this lawsuit against Cornerstone America, a division of Mid-West National Life Insurance Company of Tennessee and United Insurance Companies, Incorporated (“Defendants”) on behalf of themselves and all others similarly situated to recover unpaid overtime wages. Specifically, Plaintiffs allege that when they were performing services as District, Regional, and Area sales leaders/managers, they were employees of Defendants entitled to pay at one-half times the average hourly wage for all hours they worked over 40 hours per week (overtime pay). Defendants deny that Plaintiffs were employees and contend instead that Plaintiffs served as independent contractors and, therefore, are not entitled to overtime wages. In addition to seeking overtime wages, Plaintiffs are also seeking liquidated damages in an amount equal to their unpaid compensation and/or prejudgment interest and attorneys’ fees and costs.

The Court has made a preliminary ruling that Plaintiffs were employees, and not independent contractors, of Cornerstone when acting as District, Regional, and/or Area sales leaders/managers. This preliminary ruling was made only with respect to the foregoing named Plaintiffs. This preliminary ruling is currently being appealed to the United States Court of Appeals for the Fifth Circuit and, thus, could be changed,

modified, or overruled by the appellate court. For the time being, however, that appeal does not affect the continuation of this suit or your opportunity to opt into it.

The Court has identified you as a person that may be similarly situated to Plaintiffs. The Court's ruling on the classification of any person that joins this lawsuit, however, may or not be the same as its previous ruling. Defendants have denied any wrongdoing or liability and vigorously contest all claims that have been asserted. Defendants have also asserted counterclaims against some of Plaintiffs. These counterclaims include: declaratory judgment; unjust enrichment, seeking reimbursement for matching agency contributions paid pursuant to participation in the Dynamic Equity Fund; breach of contract, seeking payment of outstanding debt balances of accounts. Defendants are also seeking attorneys' fees. Plaintiffs have denied any wrongdoing or liability and vigorously contest all counterclaims that have been asserted.

Composition of the Class

This Court has defined the class as those who worked for Cornerstone America, a division of Mid-West National Life Insurance Company of Tennessee, from May 26, 2002 to the present, as a District, Regional, or Area sales leader/manager.

Your Right to Participate in the FLSA Portion of This Lawsuit

If you fit the definition above, you may join the FLSA portion of this lawsuit by mailing the "Consent to Become Party Plaintiff" form to Plaintiffs' counsel at the following address:

Watts Law Firm, L.L.P.
Bank of America Plaza, Suite 100
300 Convent Street
San Antonio, Texas 78205

Alternatively, you may join the FLSA portion of this lawsuit by logging onto www.wattslawfirm.com/cornerstone and completing and submitting the online "Consent to Become Party Plaintiff" form.

The form must be mailed or submitted online to Plaintiffs' counsel in sufficient time to have Plaintiffs' counsel file it with the Federal Court on or before July 7, 2008. If you fail to return the "Consent to Become Party Plaintiff" form to Plaintiffs' counsel for it to be filed with the Federal Court on or before the above deadline, you will not be able to participate in the FLSA portion of this lawsuit.

Effect of Joining This Lawsuit

If you choose to join in this lawsuit, you will be bound by the decisions of the Court, whether they are favorable or unfavorable. If you choose to join in this lawsuit, you may be asked to: (1) appear for a deposition in Texas; (2) respond to written discovery; and/or (3) appear at a trial in Fort Worth, Texas, all while being represented by Plaintiffs' counsel designated above. Should Defendants assert any counterclaims

against you and should Defendants prevail, you may be liable for payment of certain damages to Defendants depending on the nature and extent of the counterclaim asserted against you. The description of the potential counterclaims is discussed above; however, simply joining in this lawsuit does not mean that counterclaims will be asserted against you. It only means that Defendants could potentially assert counterclaims. Whether Defendants may assert any counterclaims depends on your specific factual circumstances (For example, if you do not owe any outstanding debt balances to Defendants, they would not assert a breach of contract claim against you. On the other hand, if you participated in the Dynamic Equity Fund, then Defendants may assert an unjust-enrichment claim against you).

The attorneys for the class Plaintiffs are being paid on a contingency-fee basis, which means that if there is no recovery there will be no attorneys' fees. If the Plaintiffs prevail in this litigation, the attorneys for the class will request that the Court either determine or approve the amount of attorneys' fees and costs they are entitled to receive for their services.

If you return the consent form attached to this Notice or submit the online consent form, you are agreeing to: (1) designate the class representatives as your agents to make decisions on your behalf concerning this lawsuit; (2) the method and manner of conducting this lawsuit; (3) the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs; and (4) all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the representative Plaintiffs will be binding on you if you join this lawsuit. However, the Court has retained jurisdiction to determine the reasonableness of any settlement with Defendants, and any agreement concerning the reasonableness of any attorneys' fees and costs that are to be paid to Plaintiffs' counsel.

Legal Effect of Not Joining This Lawsuit

If you choose not to join in this lawsuit, you will not be affected by any judgment or settlement rendered in the FLSA portion of this lawsuit, whether favorable or unfavorable to the class. If you choose not to join in this lawsuit, you are free to file your own lawsuit under the FLSA, but you will then be responsible for all costs, including counsel fees, associated with your lawsuit.

No Retaliation Permitted

The Fair Labor Standards Act contains an anti-retaliation provision that prohibits employers from discharging or otherwise retaliating against an employee who asserts a claim under the FLSA.

Your Legal Representative if You Join

If you choose to join this lawsuit and agree to be represented by the named Plaintiffs through their attorneys, your counsel in this action will be:

Watts Law Firm, L.L.P.
Bank of America Plaza, Suite 100
300 Convent Street
San Antonio, Texas 78205
Telephone: (888) 883-0028
Fax: (210) 527-0501

And

Jordan, Houser & Flournoy
740 E. Campbell Road, Suite 560
Richardson, Texas 75081
Telephone: (214) 369-0361
Fax: (214) 242-2170

Further Information

Further information about this Notice, the deadline for filing a "Consent to Become a Party Plaintiff," or questions concerning this lawsuit may be obtained by writing or phoning Plaintiffs' counsel, Mikal C. Watts, at Watts Law Firm, L.L.P., at the information above or by email at cornerstoneclass@wattslawfirm.com.