

STATE OF WISCONSIN, MILWAUKEE COUNTY CIRCUIT COURT

**If you are a current or former non-exempt, hourly-paid employee of the Wisconsin Department of Corrections who worked as security personnel in a correctional institution (“CO”)<sup>1</sup> between August 4, 2018 and the date of judgment, your rights may be affected.**

***A State Court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.***

- A lawsuit has been filed by Nicole McDaniel, David Smith and Matthew Davis (the “Plaintiffs”) against Wisconsin Department of Corrections (“WDC”) (the “Defendant”).
- Plaintiffs allege that the Defendant is required to pay, and has not paid, COs straight time and overtime compensation owed for their mandatory pre- and post-shift activities performed at WDC facilities.
- The Court has allowed this lawsuit to be a class action on behalf of everyone who meets the above definition.
- The Court has not decided whether the Defendant did anything wrong. There is no money available now and no guarantee that there will be. Your legal rights are affected, however, and you have a choice to make now as described in the below table.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
<b>DO NOTHING</b>	<b>Stay in this lawsuit. Await the outcome. Give up certain rights.</b> By doing nothing, you automatically remain a class member in the lawsuit and keep the possibility of getting money or benefits that may come from a trial or settlement. You will give up any rights to separately sue the Defendant about the matters involved in this lawsuit and will be bound by the result of the lawsuit, whether favorable or unfavorable.
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this lawsuit. Receive no benefits from it. Keep rights to sue.</b> If you ask to be excluded and money benefits are awarded later, you will not share in those benefits, but you will keep any right to separately sue the Defendant about the same matters in this lawsuit and will not be bound by the result of this lawsuit, whether favorable or unfavorable.

- Your options are explained in this Notice. To ask to be excluded, as is set forth in Paragraph 13 below, you must act before March 2, 2026. To remain a Class Member, you do not need to do anything.
- If this case is not dismissed, resolved by motions, or settled before trial, Plaintiffs must prove the claims against the Defendant at a trial. If money or benefits are obtained from the Defendant, you will be notified about how you may obtain a share.
- **Any questions? Read on and visit [www.wdcclassaction.com](http://www.wdcclassaction.com) for additional court documents concerning this case.**

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<sup>1</sup> “CO” as used in this Notice includes Correctional Officers and Correctional Sergeants.

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## BASIC INFORMATION

### 1. **Why is there a notice?**

If you receive this notice, you were identified through the Defendant's records as an individual who is a current or former non-exempt, hourly-paid employee of the Defendant who worked as a CO between August 4, 2018 and the present. The Court authorized this notice to let you know that the Court has certified (or, allowed to proceed) a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court holds a hearing. The hearing is to decide whether the claims being made against the Defendant, on your behalf, are correct. Judge Paul R. Van Grunsven of the Milwaukee Circuit Court, State of Wisconsin is currently overseeing this class action. The lawsuit is known as *McDaniel, et al. v. Wisconsin Department of Corrections*, Case No. 2020CV004571.

### 2. **What is this lawsuit about?**

This lawsuit is about whether the Defendant is required to pay COs for all the time they spend performing pre- and post-shift activities, performed at the direction of or with Defendant's knowledge of, and for the benefit of the Defendant and its facilities. Plaintiffs allege that the Defendant must do so and has not paid COs for all the pre- and post-shift time they spend. The Defendant denies that it acted unlawfully and contends that it has no obligation to pay COs for all pre- and post-shift time they spend inside a prison facility, including time spent outside the facility but waiting to enter the facility. The Defendant also denies that class certification is appropriate.

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

In a class action lawsuit, persons called the "Plaintiffs" or "Class Representatives" (in this case, Nicole McDaniel, David Smith and Matthew Davis) sue on behalf of a group of people who have a similar claim. The people together are a "Class" or "Class Members." The entity they sue (in this case, the Wisconsin Department of Corrections) is called the "Defendant". In a class action, the court resolves certain issues for all Class Members, except for those who exclude themselves from the Class.

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

The Court decided that this lawsuit can be a class action and move toward a trial because it meets the requirements for class certification under Wis. Stat. § 803.08. The class includes:

All current and former non-exempt, hourly-paid WDC employees who worked as security personnel in a correctional institution (including but not limited to Correction Officers and Correctional Sergeants) in the State of Wisconsin at any time during the period starting two years before this action commenced through the date of judgment ("the Class Period").

The Court certified one class in this case, described below in the answer to Question 10. More information about why the Court is allowing this lawsuit to be a class action is in the Court's Order, filed September 29, 2022, which is available at [www.wdcclassaction.com](http://www.wdcclassaction.com).

## THE CLAIMS IN THE LAWSUIT

### 5. **What does the lawsuit claim?**

The claim by Plaintiffs in this lawsuit is described in Question 2. For additional information, you can read a copy of Plaintiffs' Second Amended Class Action Complaint, which is available at [www.wdcclassaction.com](http://www.wdcclassaction.com).

**6. How does the Defendant Answer?**

The Defendant denies that it has an obligation to pay COs for all the time they spend inside the prison facility, time spent outside the facility but waiting to enter the facility, denies that it acted unlawfully, and denies that a class should have been certified. Defendant's Answer is available at [www.wdclassaction.com](http://www.wdclassaction.com).

**7. Has the Court decided who is right?**

No. By certifying the Class and issuing this notice, the Court is not suggesting that the Plaintiffs will win or lose this case. Unless the case settles, Plaintiffs must prove their claims at a trial, the date of which has not yet been set by the Court.

**8. What are the Plaintiffs asking for?**

The Plaintiffs are asking the Court to award each Class Member monetary damages in the form of unpaid wages that Plaintiffs allege are owed by the Defendant and/or other amounts awardable by law. The Parties disagree on the scope of unpaid wages that are recoverable.

**9. Is there any money available at this time?**

No money or benefits are available now because the Court has not decided whether the Defendant did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If money or benefits are obtained, you will be notified about how to ask for a share (unless you affirmatively opt out of the Class).

**WHO IS IN THE CLASS**

**10. Am I part of the Class?**

The Class certified by the Court consists of the following individuals:

All current and former non-exempt, hourly-paid WDC employees who worked as security personnel in a correctional institution (including but not limited to Correctional Officers and Correctional Sergeants) in the State of Wisconsin at any timing the period starting two years before this action commenced through the date of judgment.

**You are a class member if:** you are or were a non-exempt, hourly-paid WDC employees who worked as security personnel in a correctional institution (including but not limited to Correctional Officers and Correctional Sergeants) in the State of Wisconsin between August 4, 2018 and the present. Class members are identifiable based on the Defendant's records.

If you are still not sure if you are included in the Class, you can get help at [www.wdclassaction.com](http://www.wdclassaction.com) or you can contact Class Counsel – their contact information is listed in the answer to Question 14.

**YOUR RIGHTS AND OPTIONS**

You have to decide whether to stay in the Class or ask to be excluded before the trial, and you have to decide this now.

**11. What happens if I do nothing?**

You don't have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit. If you are a Class member, by doing nothing you will stay in the Class. If you stay in the Class and the Plaintiffs obtain money or benefits, either as a result of the trial or a settlement, you will be notified about how to receive a share (or how to ask to be excluded from any settlement). Keep in mind that if you are a member of the Class and you do nothing now, regardless of whether the Plaintiffs win or lose the legal motions or trial you will not be able to separately sue, or continue to separately sue, the Defendant as part of any other lawsuit about the legal claims that

are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes in this class action.

**12. Why would I ask to be excluded from the Class?**

If you already have your own lawsuit against the Defendant regarding similar allegations and/or claims, and want to continue with it, you need to ask to be excluded from the Class. If you exclude yourself from the Class—sometimes called “opting-out” of the Class—you won’t get any money or benefits from this lawsuit if any are awarded or obtained as a result of the trial, legal motions, or from any settlement (that may or may not be reached) between the Defendant and the Plaintiffs. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action.

If you choose to start your own lawsuit against the Defendant after you exclude yourself, you may hire and pay your own lawyer for that lawsuit, and you’ll have to prove your claims.

**13. How do I ask to be excluded from the Class?**

To exclude yourself from the Class, you must email, mail or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from *McDaniel, et al. v. Wisconsin Department of Corrections*, Case No. 2020CV004571. Your request for exclusion must include your name and address, and your signature (if your request for exclusion is sent by email, include your name in the email). You must email your request to [info@rg2claims.com](mailto:info@rg2claims.com) or mail your exclusion request to: *McDaniel, et al. v. Wisconsin Department of Corrections c/o RG/2 Claims Administration LLC*, PO Box 59479 Philadelphia, PA 19102-9479 by mail, postmarked no later than March 2, 2026. You may also get an Exclusion Request form at [www.wdcclassaction.com](http://www.wdcclassaction.com).

**THE LAWYERS REPRESENTING YOU**

**14. Do I have a lawyer in this case?**

Yes. The Court has appointed the law firms of DiCello Levitt LLP, Burger Law, LLC, and Cuneo Gilbert & LaDuca, LLP, to serve as “Class Counsel” and represent the Class. Class Counsel can be contacted via phone at 312-214-7900, 618-272-2222, or 202-789-3960, and you can email them at [alevitt@dicellolevitt.com](mailto:alevitt@dicellolevitt.com), [gary@burgerlaw.com](mailto:gary@burgerlaw.com), or [mflannery@cuneolaw.com](mailto:mflannery@cuneolaw.com). You may also contact the Notice Administrator at 1-866-742-4955.

**15. Should I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel is working on your behalf. You may seek the advice and guidance of your own lawyer, if you wish, at your own expense. You may also ask them to appear in Court for you if you want someone other than Class Counsel to speak for you.

**16. How will the lawyers be paid?**

If Class Counsel obtains money or benefits for the Class, they may ask the Court for attorneys’ fees, costs, and expenses. You won’t have to pay these fees, costs, or expenses out-of-pocket. If the Court grants Class Counsel’s request, the fees and expenses would generally be deducted from any money obtained for the Class or paid separately by the Defendant.

## GETTING MORE INFORMATION

**17. How do I update my contact information?**

If you wish to update your contact information, you may: (1) Send an email with the corrected information to [info@rg2claims.com](mailto:info@rg2claims.com); or (2) Mail the updated information to McDaniel, et al. v. Wisconsin Department of Corrections c/o RG/2 Claims Administration LLC, PO Box 59479 Philadelphia, PA 19102-9479.

**18. Where can I get more information?**

Visit [www.wdcclassaction.com](http://www.wdcclassaction.com), where you will find the Court's September 29, 2022 Order certifying the class, Plaintiff's Second Amended Class Action Complaint, Defendant's Answer to the Second Amended Class Action Complaint, as well as an Exclusion Request form (should you want to "opt out" of the Class). The website will be updated with the most current information about the lawsuit as it becomes available. You may also write with questions to McDaniel, et al. v. Wisconsin Department of Corrections c/o RG/2 Claims Administration LLC, PO Box 59479 Philadelphia, PA 19102-9479 or to [info@rg2claims.com](mailto:info@rg2claims.com). You may call Class Counsel at any of the phone numbers listed in Question 14 above if you have any questions. Before doing so, however, please read this full Notice carefully. You may also contact the Notice Administrator at 1-866-742-4955.

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE  
CONCERNING THIS CASE.**