

**NOTICE OF CERTIFICATION AND SETTLEMENT
APPROVAL/ DISTRIBUTION APPROVAL HEARING**

***HORNER V. PRIMARY RESPONSE INC. AND
GARDA CANADA SECURITY CORPORATION***

Court File No.: CV-18-00603648-00CP

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

TO: All security guards (including concierges), mobile security guards, dispatchers/ communications operatives, supervisors and mobile supervisors employed by Primary Response Inc. in the Province of Ontario, for the period from February 27, 2011 to January 15, 2018, save and except for those employed under a Collective Agreement (the “Class” and “Class Members”)

PURPOSE OF THIS NOTICE

On August 20, 2018, a class action lawsuit was commenced in the Ontario Superior Court of Justice by Kionna Horner (“Horner”) against Primary Response Inc. (“Primary Response”) and Garda Canada Security Corporation (“Garda”).

The lawsuit alleges that Primary Response failed to pay wages and overtime owing to Class Members and made unlawful deductions for uniforms (“Class Action”). The lawsuit addresses a period prior to the sale of Primary Response to Garda.

Following a mediation in May 2020, Horner and the Defendants reached an agreement to certify and settle the Class Action, subject to approval of the Ontario Superior Court of Justice (the “Proposed Settlement”).

This notice describes the Proposed Settlement in greater detail, including who it applies to, the details of the Settlement, and the process by which Class Members will be compensated.

The Settlement must be approved by the Court before it is finalized. As a Class Member, you have a right to take part in the approval hearing if you wish. The process for taking part in the approval hearing is set out below.

BRIEF DESCRIPTION OF THE ACTION

There were four main issues raised in the Class Action:

1. Off-the-clock pre-shift work

Primary Response required employees to attend work a minimum of fifteen minutes early in full uniform for a debriefing as part of the shift changeover but had a systemic practice of failing to pay for such work. Rather, employees were paid for their scheduled hours.

2. Unlawful overtime averaging

Primary Response failed to pay Class Members for their weekly overtime after the expiry of its overtime averaging permit for the period August 6, 2016 to January 15, 2018, before the sale of Primary Response to Garda. There was no permit in place permitting the averaging of overtime from August 5, 2016 to January 15, 2018, and Primary Response failed to pay weekly overtime during this period.

3. Unlawful uniform deductions

Primary Response made deductions from employees’ wages for uniforms and other items. The Class Action alleged that the forms authorizing these deductions did not comply with employment standards legislation.

4. Unpaid training

Primary Response required employees to undergo certain training and orientation sessions without pay.

MOTION FOR CERTIFICATION AND APPROVAL OF PROPOSED SETTLEMENT

The motion to approve the Proposed Settlement will be heard on **December 15, 2020 at 10:00 a.m.** If the hearing is held by remote technology, instructions for viewing the hearing remotely will be posted on the Class Action website (primaryresponseclassaction.com) and the website of Class Counsel (goldblattpartners.com).

At the hearing of the motion, the Court will determine whether the terms of the Proposed Settlement are fair and reasonable and in the best interests of the Class. Horner and the Defendants believe that the Proposed Settlement is fair, reasonable and in the best interests of the Class. If the Court is satisfied with the fairness of the Proposed Settlement, it will be approved.

Members of the Class and the public may attend the approval hearing, but are not required to do so. Class Members are entitled, but not obligated, to express their opinions about the Proposed Settlement and whether or not it should be approved at the approval hearing. If Class Members wish to make a written submission to the Court, they must deliver written submissions to Goldblatt Partners LLP (“Class Counsel”), at the address below (see page 4), no later than November 30, 2020, so that it can be brought to the attention of the Court and the Parties in advance. Any written submissions must include:

- The Class Member’s name;
- A brief statement of the reasons that the Class Member supports or opposes the Proposed Settlement; and
- Confirmation of whether the Class Member intends to attend the hearing to approve the Proposed Settlement.

Please note that any written submissions will NOT be confidential, and they will be shared with the Defendants and filed publicly with the Court.

TERMS OF THE PROPOSED SETTLEMENT

The detailed terms of the Settlement are set out in the Settlement Agreement between the parties. A copy of it can be found at goldblattpartners.com or primaryresponseclassaction.com. A copy can be obtained by contacting Class Counsel (see page 4). This notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between this notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

Pursuant to the Settlement, the Defendants will pay \$2.9 million (the “Settlement Fund”). Payments will be made from the Settlement Fund for Class Counsel Fees (subject to Court approval), disbursements, a representative plaintiff honorarium (subject to Court approval), and the Class Proceedings Fund Levy. There will also be holdbacks for administrative expenses and taxes. The remaining amount (the “Claim Fund”) will be distributed to Class Members through a claims process overseen by a Claims Administrator, RicePoint Administration Inc.

Under the Proposed Settlement, Class Counsel will direct that a certain amount of the Claim Fund will be allocated to each of the four issues (see above for description of issues). It is estimated that the amounts will be approximately as follows:

| | |
|-----------------------|--------------|
| a. Pre-Shift Time | \$700,000.00 |
| b. Overtime Averaging | \$600,000.00 |
| c. Training | \$170,000.00 |
| d. Uniforms | \$140,000.00 |

Class Members will make a claim to the Claims Administrator for one or more of the issues. The Claims Administrator will determine how many Class Members claimed per issue and will divide the amounts equally between Class Members for each issue. For example, if 6,000 Class Members submit timely Administrative Forms and claim for issue (a) and the amount available for distribution for issue (a) is \$700,000.00, each Class Member would receive \$116.67 for issue (a). The amounts in issues (a), (b), and (c) are taxable and subject to employment-related deductions such as CPP/EI, and the amounts in issue (d) are non-taxable reimbursements.

MAKING A CLAIM

To receive a payment under the Proposed Settlement, you must complete an Administration Form and submit it to the Claims Administrator by the deadline (90 days from Final Approval of the Proposed Settlement).

If your name is on the Class list provided by the Defendants, you will be considered a member of the Class. If your name is not on the Class List, you may be required to submit documents proving your membership in the Class. If the Claims Administrator determines you are not a Class Member, you may appeal to a referee, provided you pay a fee.

The Administration Form may be completed online, or a hard copy can be downloaded and submitted by email, fax, or mail.

The Administration Form will allow you to indicate which of the four issues you are claiming (the issues are described above under the heading Brief Description of the Action). You may claim for more than one issue. Any Class Member is eligible to claim for the issues relating to pre-shift time, training, and uniform deductions. Only Class Members who worked at any time during August 6, 2016 to January 15, 2018 may claim for the overtime averaging compensation.

You are not required to file any documents or other proof to receive payment, but you may be required to verify that you worked for Primary Response Inc. during the relevant periods and are an eligible member of the Class.

The Claims Administrator will provide a Notification Letter describing your payment, and if you do not agree with the amount, you may appeal to a referee, provided you pay a fee.

You will receive payment by your choice of e-transfer or cheque.

LEGAL FEES / HONORARIUM

Pursuant to the Settlement Agreement, and subject to the Court's approval, Class Counsel (the lawyers for the Class Members) will receive legal fees of 25% plus HST and disbursements. This is consistent with the retainer agreement between the representative plaintiff and Class Counsel.

Pursuant to the Settlement Agreement, and subject to the Court's approval, the representative plaintiff will receive \$10,000.00 which recognizes her efforts and time in advancing this class proceeding.

OPT-OUT PROCESS

Members of the Class will be bound by the terms of the Proposed Settlement, if approved by the Court, unless they opt out. This means that, unless you opt out, you will not be able to start or continue with any other claim or legal proceeding against the Defendants in relation to the matters alleged in the class action lawsuit. If a Class member opts out, they will NOT be eligible to participate in or receive ANY compensation pursuant to the Proposed Settlement. The deadline to opt out is November 20, 2020.

If you do not want to be part of this Settlement, you may opt out by filling out the enclosed "opt-out" form and sending it to the following address:

Goldblatt Partners LLP
Attention: Tanya Atherfold-Desilva
20 Dundas Street West, Suite 1039
Toronto, Ontario
M5G 2C2
Tel: 416-979-4233
Fax: 416-591-7333
Email: tatherfold@goldblattpartners.com

It is a term of the Proposed Settlement that if the number of Class Members that opt out exceeds a threshold provided for in the Settlement Agreement, the Defendants have the discretion to terminate the Settlement. If this occurs, the Defendants would not make the payments under the Settlement Agreement and the litigation would continue to proceed in the normal course. Any Class Member who has concerns about the Settlement Agreement or is considering opting out should contact Class Counsel to discuss their concerns.

MORE INFORMATION AND CLASS COUNSEL

For more information, or if you have any questions, please contact Class Counsel at the address below:

Goldblatt Partners LLP
Attention: Tanya Atherfold-Desilva
20 Dundas Street West, Suite 1039
Toronto, Ontario, M5G 2C2
Tel: 416-979-4233
Fax: 416-591-7333
Email: tatherfold@goldblattpartners.com

THIS NOTICE WAS APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.

OPT OUT NOTICE

You may opt out of this settlement by mailing this “opt out” form to the following address before November 20, 2020:

Goldblatt Partners LLP
Attention: Tanya Atherfold-Desilva
20 Dundas Street West, Suite 1039
Toronto, Ontario
M5G 2C2

Name: _____

Email: _____

Address: _____

Postal Code: _____

Telephone: _____

By submitting this form, I confirm that I **do not** wish to be a Class Member in the class action lawsuit *Horner v. Primary Response Inc. and Garda Canada Security Corporation*. I understand that by opting out I will not be entitled to the benefits of the Settlement, including any monetary payment. I confirm that having chosen to opt-out of this class, I will receive no further communications from class counsel regarding this class action.