

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

**OFFICIAL COURT NOTICE**  
**IMPORTANT: PLEASE READ CAREFULLY.**

**YOU MAY GET MONEY FROM THIS CLASS ACTION SETTLEMENT  
AND YOUR RIGHTS ARE AFFECTED BY THE LEGAL PROCEEDINGS IN THIS ACTION.**

**Why is this notice being sent?**

This notice is to inform you of a class and collective action settlement in the case *Herring, et al. v. Hewitt Associates, LLC*, Case No. 3:06-cv-00267 (TJB) pending in the U.S. District Court for the District of New Jersey. The Plaintiffs, a group of former and current Benefits Analysts at Hewitt, have claimed that Hewitt Associates, LLC (“Hewitt” or “the Company”) has improperly classified individuals employed as “Benefits Analysts” in Job Codes 1445, 1446 and/or 1447 (“Benefits Analysts”) as exempt from federal and state overtime pay requirements. As a result, the Plaintiffs allege that the Benefits Analysts have worked weeks in excess of 40 hours without being paid the overtime compensation required by law. Plaintiffs have sought all unpaid overtime compensation, plus “liquidated” damages. Hewitt has denied Plaintiffs’ allegations in their entirety and has asserted that its pay practices with respect to Benefits Analysts have complied with all legal requirements.

After litigating the case for over two years and engaging in extensive negotiations, the parties have reached a settlement of the Action. The Court has granted preliminary approval of the settlement and has scheduled a hearing on March 19, 2009 at 3:00 p.m. at the Clarkson S. Fisher Building and U.S. Courthouse in Trenton, New Jersey to determine whether to grant final approval.

**If you are one of the individuals described below who is affected by the proposed settlement, you may get money from this settlement, but only if you complete and submit the enclosed Claim Form by February 23, 2009 to be eligible to receive any settlement proceeds.**

**Who is affected by the proposed settlement?**

The parties’ proposed settlement affects several groups of individuals who have worked as Benefits Analysts in Job Codes 1445, 1446 and/or 1447.

**FEDERAL CLASS:** The federal class consists of all individuals who worked for Hewitt Associates in the United States as Benefits Analysts in job codes 1445, 1446 and 1447, who have already opted in to this litigation, as well as all individuals who have worked for Hewitt as Benefits Analysts and who return a Claim Form before **February 23, 2009**.

**STATE CLASSES:** The state classes consist of all individuals who have worked as Benefits Analysts in job codes 1445, 1446 and/or 1447, in California, Connecticut, Illinois, New Jersey, New York, Pennsylvania, and Wisconsin who do not request to be excluded from the settlement. You must have worked in one or more of the states during the time periods as follows to be eligible to be included in the state classes:

- In California on or after April 11, 2004
- In Connecticut on or after June 17, 2006
- In Illinois on or after April 22, 2005
- In New Jersey on or after April 15, 2006
- In New York on or after June 17, 2002
- In Pennsylvania on or after June 17, 2005
- In Wisconsin on or after June 17, 2006

## Case Description

Plaintiffs Carol Herring and Angela Bryant initially brought this collective action against Defendant Hewitt Associates, Inc. (“Hewitt”) challenging Defendant’s classification of Benefits Analysts as exempt from receiving overtime premium payments under the Fair Labor Standards Act (“FLSA”). Since the filing of the *Herring* case, three additional lawsuits have also been filed: 1.) *Frye and Cerda, et al. v. Hewitt Associates, LLC*, Case No BC388921 (Los Angeles County, California Superior Court) filed in California; 2.) *Wesley, et al. v. Hewitt Associates, LLC*, Case No. 08CH14873 (Cook County, Illinois Circuit Court) filed in Illinois; and 3.) *Toth, et al. v. Hewitt Associates, LLC*, Case No. SOM-L-609-08 (Somerset County, New Jersey Superior Court) filed in New Jersey. These lawsuits are based on essentially the same allegations as the *Herring* lawsuit, but bring causes of action under each state’s laws, rather than the federal FLSA. All four lawsuits claim that Hewitt Associates has violated wage and hour laws by misclassifying Benefits Analyst employees as exempt from the overtime provisions of the FLSA and applicable state laws and failing to pay them overtime wages for overtime hours worked. Plaintiffs in each lawsuit have sought unpaid compensation and statutory penalties, as well as reasonable attorneys’ fees and costs for bringing the suits.

Hewitt expressly denies any wrongdoing or legal liability arising out of any of the claims alleged in any of the lawsuits. Hewitt continues to assert that its pay practices with respect to Benefits Analysts have complied with all legal requirements and that Benefits Analysts are exempt employees under federal and state law.

After two years of litigation, the parties entered into lengthy settlement negotiations, resulting in the agreement to settle the Action as summarized in this notice.

## What are my options?

You have four options with regards to this settlement. You can: 1.) participate in the settlement by filing a Claim Form; 2.) object to the settlement; 3.) request to be excluded from the settlement; or 4.) do nothing. Details about each option and how it will affect your rights under the law are explained below.

## What are the terms of the proposed settlement?

Under the Settlement Agreement, Hewitt will pay \$4,900,000.00 into a qualified settlement fund upon preliminary Court approval of the settlement. This fund is designed to cover all payments to class members, as well as attorneys’ fees and litigation costs, settlement administration costs and service payments to the named Plaintiffs.

After deducting attorneys’ fees and costs, settlement administration costs and named Plaintiffs’ service payments, approximately \$3,205,000.00 will be distributed among members of the settlement classes who submit valid and timely Claim Forms. The amount that each class member receives will vary proportionately with the number of weeks he or she worked for Hewitt as a Benefits Analyst. Claim amounts will equal the product of 1.) the balance of the settlement fund divided by the number of full workweeks worked by all members of the settlement classes (weekly payment); and 2.) the number of workweeks a class member worked at Hewitt during the settlement period. In addition, the six named Plaintiffs and Class Representatives, who took the risk of bringing this litigation, took lead roles in this litigation and assisted in its resolution, will receive service awards of \$7,500 each (federal lawsuit) and \$2,000 each (state lawsuits). Finally, settlement funds not paid out to settle claims shall be distributed to a charitable organization approved by the Court or as otherwise directed by the Court.

## How will the attorneys for the class be paid?

Class Counsel will be paid from the Settlement Sum. The attorneys for the Class will ask for fees of no more than \$1,617,000.00 and reimbursement of costs of litigation. Settlement Class Members may request from Class Counsel a copy of the Motion for Attorneys’ Fees and Costs. That Motion will also be a public document filed with the Court. The actual amount awarded will be determined by the Court, to ensure that the amount of attorneys’ fees and costs is reasonable.

## Who represents the parties?

### Attorneys for Plaintiffs & the Class are:

#### **KLAFTER OLSEN LESSER LLP**

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#### **SCHNEIDER WALLACE**

#### **COTTRELL BRAYTON KONECKY LLP**

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### Attorneys for Defendant are:

#### **SEYFARTH SHAW LLP**

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## What happens if I choose to participate in the settlement?

If you return the enclosed Claim Form by **February 23, 2009** and the Court approves the settlement, you will receive a proportional monetary award based on the number of weeks in which you worked for Hewitt as a Benefits Analyst during the relevant period. To participate in the settlement, you must complete a Claim Form and return it to the Settlement Administrator with a postmark date of no later than **February 23, 2009**. A copy of the Claim Form is enclosed with this notice and may also be obtained by contacting the Settlement Administrator listed below. The address of the Settlement Administrator appears at the end of this notice. Do not alter the Claim Form in any way. Claim Forms that are altered, unsigned or untimely will be invalid and will preclude you from receiving funds under the settlement.

Upon final approval, you will also be deemed by the Court to have fully and irrevocably released and waived any and all claims you may have against Hewitt pertaining to the payment of wages or hours of work under federal, state or local law through the date on which the Court approves the settlement. You will be unable to bring any claim against Hewitt that is included in the Release of Claims provided on the Claim Form.

## No retaliation

Whether you are a current or former Benefits Analysts for Hewitt, your decision as to whether or not to submit a Claim Form will in no way affect your employment with Hewitt. Hewitt is prohibited by law from taking any action against Benefits Analysts who join the Action or participate in the settlement.

## How quickly must I act to participate in the settlement?

To join the Action and participate in the settlement, you must submit a properly completed copy of the enclosed Claim Form to the Settlement Administrator. **The Claim Form must be postmarked or received by the Settlement Administrator at the address set forth below on or before February 23, 2009.**

## What if I choose to object to the settlement?

You can object to the terms of the settlement before final approval. However, if the Court approves the settlement, you will still be bound by the terms of the settlement. You may both object to the settlement and participate in it, but you must timely file a Claim Form to receive any money from this settlement.

To object, you must submit a written objection by **February 23, 2009** to the Settlement Administrator at Administrator: Hewitt Benefits Analyst Settlement, c/o Rust Consulting, Inc., P.O. Box 9424, Minneapolis, MN 55440-9424. Any written objection must state each specific reason in support of your objection and any legal support for each objection. Your objection must also state your full name, address, and the dates and position of your employment with Hewitt. **DO NOT TELEPHONE THE COURT.**

In addition to filing a written objection, you may also present your objection in person at the Final Approval Hearing. However, to appear at the Hearing in Court, you must first submit a Notice of Intention to Appear at the Final Approval Hearing, which is currently set for March 19, 2009 at 3:00 p.m., at the Clarkson S. Fisher Building and U.S. Courthouse, 402 East State Street, Trenton, New Jersey. You can enter an appearance *in propria persona* (meaning you choose to represent yourself) or through your own attorney. To do so, you or your attorney must also file an Entry of Appearance with the Clerk of the United States District Court, District of New Jersey.

**IF YOU INTEND TO OBJECT TO THE SETTLEMENT, BUT WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT FUNDS, YOU MUST STILL TIMELY FILE YOUR CLAIM FORM AS STATED ABOVE. IF THE COURT APPROVES THE SETTLEMENT DESPITE YOUR OR ANY OTHER OBJECTIONS AND YOU HAVE NOT SUBMITTED A CLAIM FORM, YOU WILL NOT RECEIVE ANY PROCEEDS FROM THE SETTLEMENT.**

## What if I choose to exclude myself from or “opt out of” the settlement?

You may exclude yourself from the settlement by submitting a Request for Exclusion to the Court. If you submit a complete and timely Request for Exclusion, you will not participate in these proceedings, nor will you receive any recovery from these proceedings. You will also retain the right to assert any claims you may have against Hewitt relating to the payment of wages or hours of work.

To exclude yourself from the proceedings, you must submit a Request for Exclusion in writing to the Settlement Administrator, with a postmark date of no later than **February 23, 2009**. This Request for Exclusion should include your name and address, and should state: 1.) that you are requesting to be excluded from the parties' settlement in the case *Herring, et al. v. Hewitt Associates, LLC*, Case No. 3:06-cv-00267 (TJB); 2.) that you understand that by excluding yourself from the settlement, you will receive no funds in conjunction with the case; and 3.) that you understand that you will retain all rights and claims, if any, that you may have against Hewitt Associates, LLC.

### **What if I do nothing?**

If you have already filed a consent to join the Action and do nothing more, you will be bound by the settlement and will be deemed to have released all your federal and state claims. You will receive a payment by mail at your last known address.

Individuals who have not previously filed a consent to join the Action and do not return the Claim Form enclosed with this Notice or submit a Request for Exclusion will not receive any monetary award from the settlement.

If you do nothing and have also worked for Hewitt in California, Connecticut, Illinois, New Jersey, New York, Pennsylvania or Wisconsin, you will be deemed to have released and waived any claims under state or local laws which were, or could have been, alleged based on the facts set forth in the Complaint. Provided you have not filed a consent to join earlier in the case as discussed above, you may still have the right under federal law to file a complaint if the deadline to file such a claim has not already expired. However, you will not receive any money pursuant to this settlement.

If you do nothing, have not already filed a consent to join the *Herring* Action earlier in these proceedings, and did not work in California, Connecticut, Illinois, New Jersey, New York, Pennsylvania or Wisconsin, you will preserve your right to pursue your own claims provided the deadline to file such a claim has not expired.

You are strongly encouraged to make a decision as to whether you wish to participate in the settlement and to return the appropriate form within the allotted time period.

### **Who can answer questions regarding the settlement?**

This notice only summarizes this lawsuit, the settlement, and related matters. For more information about the settlement or if you have any questions regarding the settlement, you may contact Class Counsel at the addresses and numbers listed above, or contact the Settlement Administrator at:

**Administrator: Hewitt Benefits Analyst Settlement**  
**c/o Rust Consulting, Inc.**  
**P.O. Box 9424**  
**Minneapolis, MN 55440-9424**  
**(866) 208-5260**

***Do not contact the Court about this matter.***