

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

OFFICIAL COURT AUTHORIZED NOTICE
(THIS IS NOT A SOLICITATION FROM A LAWYER)

If you are or were an Operations Manager (“Operations Manager”) for PetSmart (“PetSmart”), please read this Notice.

You may have rights under a collective action lawsuit.

- Six Operations Managers have sued PetSmart, claiming that they should have been paid time-and-a-half overtime for all hours worked more than forty hours in a week. They claim that Operations Managers do not perform, as law requires, management as their primary duty, and that they spent most of their time doing non-management tasks. Despite the fact that you were paid a salary and may have been told that you were not entitled to overtime, this lawsuit may determine otherwise.
- PetSmart denies that it has done anything wrong and opposes this lawsuit. In particular, it maintains that Operations Managers are properly classified as overtime exempt managers. PetSmart intends to defend the lawsuit vigorously.
- The Court has authorized this Notice under the Fair Labor Standards Act (“FLSA”) on behalf of all persons who are or were formerly employed as Operations Managers for PetSmart in the United States at any time from February 14, 2011 to the present.
- Although the Court has authorized this Notice, it has not decided who is right or wrong.
- Your legal rights to share in the lawsuit may be affected by the choice that you have now.

I. Why Did I Get This Notice and What Is the Lawsuit About?

This Notice is to tell you of the existence of the litigation and inform you of your rights. The choice to join or not to join this lawsuit is yours.

The Lawsuit. Nicholas McKee, a former Operations Manager, and five other present and former Operations Managers have brought a lawsuit against PetSmart entitled, *McKee v. PetSmart, Inc.*, Civ. No. 12—1117-SLR (D. Del.), claiming that they were not paid overtime for all weeks in which they worked more than 40 hours as they contend is required by federal law. Specifically, they allege that, despite PetSmart’s expectation that Operations Managers’ primary duty is store management, their specific

primary duties do not differ substantially from those performed by non-exempt employees, and included tasks such as operating the cash register, assisting customers, cleaning, unloading the truck, helping with animals, setting up planograms and end caps, and stocking supplies. As a result, they claim that they are entitled to overtime under the FLSA.

PetSmart denies that it has violated the law and claims that Operations Managers are properly classified as overtime-exempt based upon their management duties.

II. What Are My Choices?

If you are or were an Operations Manager for PetSmart in the United States at any time from February 14, 2011 to the present, you are eligible to file a Consent form to join this lawsuit, which is enclosed. Joining this action does not mean that you are entitled to any unpaid overtime wages, only that the lawyers in the case will try to obtain a recovery for you.

If you wish to join this lawsuit, you must sign and complete the enclosed Consent to Become a Party Plaintiff, which must be postmarked on or before April 15, 2014. You may also fax, scan and email, or legibly photograph via cellphone and email the completed form.

If you do not wish to join this lawsuit, you should not return the enclosed Consent to Become a Party Plaintiff. Instead, you should simply take no action.

III. What Happens If I Join?

If you join, the lawyers listed below can represent you and work with you to try to obtain any unpaid overtime wages you may be owed. The Court or jury will determine your rights to any money. You will be bound by the Court's judgment, whether it is favorable or unfavorable to you, on all issues including settlement. By joining the lawsuit, you may be required to participate in the litigation, including discovery.

Plaintiffs are represented by:

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By returning the Consent form, you will join this lawsuit and these attorneys will represent you. These attorneys will be paid on a contingency fee basis, which means that if there is no recovery, you will not have to pay any attorney fees and you will not owe the attorneys anything. If there is a recovery, these attorneys will receive a part of any settlement obtained or money judgment entered in Plaintiffs' favor and their fee will have to be approved by the Court.

IV. And If I Do Not Join?

If you do not join, you will not be bound by any judgment issued or settlement approved by the Court in this case – whether it is favorable or unfavorable. You will not be entitled to share in any amounts recovered in this lawsuit, if any, but you will have the right to bring your own claims. However, if you do not join, the statute of limitations on your claim will continue to run and you may lose some or all of your rights if you do not act.

V. How Do I Join?

Enclosed is a "Consent to Become a Party Plaintiff" form. If you want to participate in this lawsuit, you must read, sign and mail the Consent form, in the enclosed prepaid envelope, by April 15, 2014. You may also fax, scan and email, or legibly photograph via cellphone and email the completed Opt-In Consent form to:

McKee v. Petsmart, Inc.
c/o GCG
P.O. Box 9349
Dublin, Ohio 43017-4249
Telephone: 1 (800) 231-1815

Should you lose or misplace the enclosed Consent to Become a Party Plaintiff form, please contact The Garden City Group, Inc. ("GCG"). A Consent form can also be obtained at 1 (800) 231-1815. For your convenience, if you wish to electronically sign the Opt-In Consent form, please email the *McKee v. PetSmart* claims administrator at petsmartlawsuit@gcginc.com and the form will be sent to you via email for electronic signature. If you have questions, you may contact Plaintiffs' counsel at (914) 934-9200 or (212) 545-1199.

VI. Will My Participation Affect My Employment?

No. Federal law prohibits an employer from firing or in any way retaliating against you because you have joined this Lawsuit.

VII. How Can I Get More Information?

Additional information can be obtained from Klafter Olsen & Lesser LLP and Hepworth Gershbaum & Roth PLLC at the above addresses and telephone numbers. You may also contact GCG at 1 (800) 231-1815. The Court file in this case can also be examined in person at the J. Caleb Boggs Federal Building, 844 N. King Street, Wilmington, DE 19801-3570. Other than in-person requests to examine the file at the Clerk's office, no inquiries concerning this case should be directed to the Court or to the Clerk of the Court.

**The Notice has been ordered by the Court,
Honorable Sue L. Robinson, U.S.D.J.**

**This Notice is not an expression by the Court of any opinion
concerning the alleged claims. This Notice simply informs you of
the pendency of this litigation and your rights to join, or not join, the lawsuit.**