

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT

CIVIL DIVISION, ROOM 5

BERDITA L. BAILEY and)
SUE RHODUS,)
)
Plaintiffs,)

CAUSE NO. 49D05-0008-CT-001177

v.)

)
WAL-MART STORES, INC.,)
SAM'S EAST, INC, d/b/a SAM'S CLUB,)
WAL-MART, MARIE WARD; and)
NATHAN CLARK,)
)
Defendants.)

**NOTICE OF PENDENCY OF CLASS ACTION, RIGHT TO APPEAR
AND RIGHT TO BE EXCLUDED FROM THE CLASS ("OPT-OUT")**

TO: ALL CURRENT AND FORMER HOURLY EMPLOYEES OF WAL-MART STORES, INC. (INCLUDING ITS OPERATING DIVISIONS SAM'S CLUB AND WAL-MART SUPERCENTERS) IN THE STATE OF INDIANA DURING THE PERIOD AUGUST 1, 1998 TO PRESENT.

PLEASE READ ALL OF THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY THESE LEGAL PROCEEDINGS. IF THE COURT ENTERS A FINAL ORDER IN FAVOR OF EITHER PARTY ABOVE, YOU MAY BE FOREVER BARRED FROM CONTESTING THE ORDER OR FROM PURSUING THE LITIGATED CLAIMS (DEFINED BELOW).

I. PURPOSE OF THIS NOTICE

1. The purpose of this Notice is to inform you of (a) the above-referenced class action lawsuit (the "Action"), (b) the entry of Findings of Fact, Conclusions of Law and Order on Plaintiffs' Motion for Class Certification entered by the Court on April 22, 2003 (the "Order"); (c) your right to appear in the Action; and (d) your right to exclude yourself from the Action (to "Opt-Out" of the Action). The Superior Court of Marion County, Indiana has approved this Notice and has set a deadline to Opt-Out as well as a trial date.

**II. BACKGROUND OF THE ACTION
(WHAT'S THIS ABOUT?)**

2. The Complaint filed in the Action seeks, on behalf of the Class (as defined below), monetary damages based upon the Plaintiffs' allegations that Wal-Mart failed to compensate its hourly employees for missed meal and rest breaks and required its hourly employees to work while not clocked in, altered the payroll records of hourly employees, or refused to properly compensate employees for overtime worked by hourly employees (the "Litigated Claims"). Wal-Mart has denied and continues to deny the allegations made by the Plaintiffs on behalf of the Class, and has asserted many defenses. The Court has scheduled a trial date for January 11, 2005.

FOR QUESTIONS GO TO WWW.WMCLASSACTION.COM

III. CLASS ACTION DETERMINATION
(WHO'S AFFECTED?)

3. The Court has determined that the Action shall be maintained as a Class Action under Rule 23 of the Indiana Rules of Trial Procedure, on behalf of a Class, consisting of "all current and former hourly employees of Wal-Mart Stores, Inc. (including its operating divisions Sam's Clubs and Wal-Mart Supercenters) in the State of Indiana during the period August 1, 1998 to present" (the "Class"). Wal-Mart has contested and continues to contest the Court's Order certifying the Action as a class action by appealing the Court's Order. The appeal is pending in the Indiana Court of Appeals as of the date of this Notice.

IV. RIGHT TO APPEAR AND TO OPT OUT
(WHAT ARE MY OPTIONS?)

4. **Class members have a right to appear before the Court in this action or Opt-Out of the Action.** Trial Rule 23 of the Indiana Rules of Trial Procedure and the Court recommend that if you elect to appear in the Action, you consult with a lawyer of your choice to review your options to appear in the Action. By exercising your right to Opt-Out, you will not be bound by any decision reached by the Court in the Action, nor will you be able to participate in any distribution of monetary damages awarded by the Court following trial or settlement of the Action. **If you do not Opt-Out, you will be bound by all determinations and judgments in the Action, whether favorable or unfavorable.** To Opt-Out you must provide counsel for the Class with your decision to Opt-Out by first class mail post-marked on or before May 18, 2004. Your decision to Opt-Out must clearly be stated to be effective, so please state in your letter "I, (your name), elect to Opt-Out of the Wal-Mart Class Action. My address is (your address)."
Please sign your letter and mail your Opt-Out notification to:

Jay P. Kennedy
KROGER GARDIS & REGAS, LLP
111 Monument Circle, Ste. 900
Indianapolis, Indiana 46204-5125

XI. ADDITIONAL INFORMATION

5. **Additional information about the Action is available on the Internet at www.wmclassaction.com.** Any questions you may have concerning the matters contained in this Notice or any request for a copy of the Amended Complaint or Order certifying the class should be directed to Class Counsel. **PLEASE DO NOT CONTACT THE COURT.** A copy of the Amended Complaint and the Order certifying the class are available to be reviewed at www.wmclassaction.com.

6. This Notice does not fully describe all of the claims and contentions of the parties. For further information, you may refer to the files of this Action, which are available for inspection and copying at the office of the Clerk of Court, Marion County Superior Court, City-County Building, 200 East Washington Street, Indianapolis, Indiana, 46204.

Dated: November 24, 2003

BY ORDER OF THE COURT

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