

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF RIVERSIDE**

JEREMY KASHKARI, ABE MAGSAYO, DEREK )	Case No. INC 072782
BROWN individually and on behalf of all other )	
similarly situated employees, )	
)	[Assigned for All Purposes to the Honorable
)	Randall White, Dept. 2J]
)	
Plaintiffs, )	
)	
)	<b>CLASS ACTION</b>
vs. )	
)	
)	
RESORT PARKING SERVICES, INC., a California )	<b>NOTICE OF PENDING CLASS ACTION</b>
corporation, MARIO GARDNER, an individual, and )	
DOES 1 through 10, inclusive )	
)	
)	
Defendants. )	
)	
_____ )	

TO: ALL PERSONS CURRENTLY OR FORMERLY EMPLOYED BY DEFENDANT RESORT PARKING SERVICES, INC. IN THE STATE OF CALIFORNIA AS VALETS AND/OR TRAFFIC DIRECTORS DURING THE PERIOD BETWEEN OCTOBER 30, 2003 TO AUGUST 22, 2008.

**THIS NOTICE MAY AFFECT YOUR RIGHTS, PLEASE READ IT CAREFULLY. PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK REGARDING THIS ACTION.**

This Notice pertains to a class action lawsuit currently pending against Resort Parking Services, Inc. and Mario Gardner in the Superior Court of California (County of Riverside) regarding claims by valets and traffic directors working for Defendants during the class period for failure to pay minimum wage, improper withholding of gratuities, failure to provide meal and rest periods, failure to provide accurate statements of wages, overtime pay, unfair business practices and unjust enrichment. You may be a member of the class for whom relief is being sought.

To be eligible for the potential benefits under the settlement, you must submit a claim to the Claims Administrator listed below, postmarked no later than November 10, 2008. A claim form is attached to this notice. If you do not wish to be included, you may exclude yourself (“opt-out”) by following the procedures described below. **DO NOT CALL THE COURT.** For more information about this lawsuit you may contact the Class Counsel or the Claims Administrator listed below.

**I. DESCRIPTION OF LAWSUIT**

On October 30, 2007, a complaint was filed by plaintiffs against Resort Parking Services, Inc (“RPS”) and Mario Gardner (RPS and Gardner are referred to as “Defendants”). The complaint was filed by two former employees of RPS in the Superior Court of California for the County of Riverside. Plaintiffs claim that Defendants violated the California Labor Code, relevant Wage Orders of the Industrial Welfare Commission, and the California Unfair Competition Law and were unjustly enriched by failing to properly pay their employees minimum and overtime wages, improperly deducted from employees tips or gratuities, failed to provide meal and rest periods and accurate wage statements. An amended complaint added a then-current employee of Defendants for the same practices.

Defendants assert that their employees were properly classified and paid. Defendants deny that any unlawful policy or practice exists as to the above allegations.

## **II. CLASS CERTIFICATION**

On February 29, 2008, the parties participated in a mediation and thereafter reached a mediated settlement on a class-wide basis.

As part of the settlement, the parties agreed to certify the class of individuals for settlement purposes only. The class certified consists of:

The class is defined to include plaintiffs, on behalf of themselves and the following class individuals: All current and former non-exempt employees of RPS who were or are employed as valets and/or traffic directors by RPS between the dates of October 30, 2003 and August 22, 2008.

The Court has not ruled on the merits of these claims and the decision to certify the class for settlement purposes only in this case should not be viewed as a prediction that Plaintiffs or the class will ultimately prevail on the merits of the action.

## **III. PROPOSED SETTLEMENT**

The settlement has a maximum value of \$250,000.00 for payment to the Class, enhancements to the named plaintiffs, and attorneys' fees and costs.

The settlement makes available cash to be paid to each class member who completes and returns a claim form according to the following formula:

All Class Members will be eligible to submit a claim for a "Settlement Award." If a Class Member submits a timely and properly completed Claim Form (attached hereto) then the Class Member will be a "Settlement Class Member." RPS will provide money to a Claims Administrator to pay Settlement Awards to Settlement Class Members. Settlement Class Members will be paid an amount for each day they worked for Defendants as a valet or traffic director between October 30, 2003 and August 22, 2008. The Settlement Class Member's Gross Settlement Amount will be calculated as follows:

From its records, Defendants will calculate the total number of hours worked by valets and traffic directors from October 30, 2003 through August 22, 2008 and divide that number by eight (8) to determine the total days worked. ("Total Days Worked"). An individual Settlement Class Member's Gross Settlement Amount for his/her time as a valet or traffic director will be calculated by (a) dividing \$170,500.00 by the Total Days Worked, and (b) multiply this amount (dollars per day) by the number of the Settlement Class Member's days worked as a valet or traffic director, as reflected in Company records.

Partial days will be rounded down to the nearest full work day. Settlement Awards are classified as fifty percent (50%) non-taxable penalties and interest in connection with alleged meal and/or rest period violations and fifty percent (50%) taxable wages. For the fifty percent (50%) of the Settlement Award treated as taxable wages, payroll deductions will be made for state and federal withholding taxes and any other applicable payroll deductions owed by the Settlement Class Member as a result of the payment, resulting in a "Net Settlement Amount." The Net Settlement Amount that will be paid to each Settlement Class Member is the Settlement Class Member's "Settlement Award." The Gross Settlement Amount for a particular Settlement Class Member is consequently the sum of the Net Settlement Amount for that Settlement Class Member plus the applicable state and federal payroll deductions owed by both the Settlement Class Member and RPS relating to the payment to the Class Member.

Class counsel will seek an award of \$62,500 in attorneys' fees and reasonable costs up to \$10,000, including attorney's costs and administrative fees. The maximum payout, including fees, costs, and judicially approved enhancement fees for the class is \$250,000.00.

## **IV. YOUR OPTIONS REGARDING THIS CLASS ACTION**

If you are a member of the class above and would like to be included in this case, you need to complete, sign and mail the enclosed Claim Form postmarked no later than November 10, 2008 to receive a monetary award.

If you are a member of the class above and would like to object to the settlement, you must file such written objections with the Court and served on counsel for the Parties no later than thirty (30) days after the date the Notice is first mailed, or October 11, 2008 (the "Objection/Exclusion Deadline Date"). No Class Member shall be entitled to be heard at the final Settlement Hearing (whether individually or through separate counsel) or to object to the Settlement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Court at the Settlement Hearing, unless written notice of the Class Member's intention to appear at the Settlement Hearing, and copies of any written objections or briefs have been filed with the Court and served on counsel for Parties on or before the "Objection/Exclusion Deadline Date." Class Members who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. You can object to the terms of settlement, however if the court rejects your objection you will still be bound by the settlement unless you filed a valid and timely Statement of Exclusion. Your objection should state a specific reason for the objection and your name, address, and dates of employment at RPS.

If you are a member of the class described above and would like to exclude yourself from the class ("opt out") you need to submit a written statement requesting exclusion from the Class on or before the "Objection/Exclusion Deadline Date." Such written request for exclusion must contain the name, address, telephone number, and social security number of the person requesting exclusion and the location and years of your employment by RPS, must be returned by mail to the Claims Administrator, at the address below, and must be postmarked on or before the "Objection/Exclusion Deadline Date." The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Any Plaintiff who opts out of the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely request for exclusion on or before the "Objection/Exclusion Deadline Date" shall be bound by all terms of the Settlement and any Final Judgment entered in this Class Action if the Settlement is approved by the Court, regardless of whether they have requested exclusion from the Settlement.

## **V. RELEASE AS TO ALL CLASS MEMBERS**

All Class Members and their successors, assigns, and/or agents, excluding those who have properly excluded themselves, release Defendants and each of their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, parent companies and attorneys and each of their company-sponsored employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees, agents, and any individual or entity which could be jointly liable with Defendants (the "Released Parties"), from the "Released Claims." For purposes of this Agreement, the "Released Claims" are defined as: all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal constitution, statute, rule or regulation, including state wage and hour laws, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, and arising out of, relating to, or in connection with:

(1) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, which are or could be the basis of claims (a) that the Released Parties failed to compensate the Class Members for all hours worked, including any claim for overtime hours, in accordance with California law; (b) that the Released Parties failed to provide the Class Members with unpaid meal periods and paid rest breaks in accordance with California law; (c) that the Released Parties failed to timely furnish accurate itemized wage statements; (d) that the Released Parties failed to pay the proper minimum wage; (e) that the Released Parties improperly withheld gratuities; (f) that the Released Parties engaged in unfair business practices; (g) that the Released Parties were unjustly enriched; and/or (h) that the Released Parties owe wages, tips, penalties, interest, attorneys' fees or other damages of any kind based on a failure to comply with any California wage and hour law, at any time on or before the last day of the Class Period (whether based on California state wage and hour law, contract, or otherwise); and/or

(2) the causes of action asserted in the Class Action and/or any claims reasonably related to the causes of action asserted in the Class Action.

The Released Claims include any unknown wage claims that the Class Members do not know or suspect to exist in their favor at the time of the release, which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement. With respect to the Released Claims, the Class Members stipulate and agree that, upon the Effective Date, the Class Members shall be deemed to have, and by operation of the final Order approving the Settlement shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which Section provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

The Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, shall be deemed to have, fully, finally, and forever settled and released any and all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

The Class Members agree not to sue or otherwise make a claim against any of the Released Parties that is in any way related to the Released Claims.

**VI. NO RETALIATION**

No one may retaliate against you because of your decision to remain in the class or opt-out.

**VII. CLASS COUNSEL**

The attorneys appointed Class Counsel and representing you are:

Patricio T.D. Barrera, Esq.  
Ashley A. Davenport, Esq.  
Barrera & Associates  
1500 Rosecrans Avenue, Suite 500  
Manhattan Beach, CA 90266  
(310) 502-1500

A Class member may, if the member so desires, enter an appearance in this lawsuit through an attorney other than Class Counsel. It is not necessary to retain an attorney in order to respond to this Notice.

**VIII. CLASS ADMINISTRATOR**

The firm administering this class action settlement is:

Desmond, Marcello & Amster  
P.O. Box 451999  
Los Angeles, California 90045  
www.dmaaction.com  
(310) 417-3919

Anyone with questions about, or information regarding, this lawsuit may contact the Class Administrator or Class Counsel.

Dated: August 22, 2008

BY ORDER OF THE HONORABLE RANDALL WHITE, SUPERIOR COURT