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SUPERIOR COURT OF THE STATE OF CALIFORNIA

2005 MAR 14 PM 1:27

FOR THE COUNTY OF SACRAMENTO

SACRAMENTO COURTS
DEPT. #54

DEAN A. DOGLIETTO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

AT SYSTEMS WEST, INC. *et al.*,

Defendants.

Case No. 04AS02796

CLASS ACTION

Judge: The Honorable Shelleyanne W. L.
Chang

NOTICE OF CLASS ACTION

**YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DON'T ACT.
PLEASE READ THIS NOTICE CAREFULLY.**

1. **Introduction** – This notice concerns a class action lawsuit (the “Action”) against AT Systems West, Inc. (“AT Systems”) on behalf of former and current employees of that company working as guards/messengers in California. The Action is currently pending in Superior Court of the State of California for the County of Sacramento (the “Court”). The Court has certified the Action to proceed as a class action on behalf of the class described below. This Notice is to advise you of the Action, your rights and options with respect to the Action, including the right to opt-out, and how to obtain more information.

2. **Summary Of The Litigation** – On July 12, 2004, a lawsuit was filed by Dean A. Doglietto against AT Systems West, Inc. on behalf of former and current guard/messenger employees of that company working in California. In this case, among other things, Plaintiff alleges that Defendant violated applicable Wage Order(s) of the Industrial Welfare Commission, regulations, and statutes, including California’s *Labor Code* §§ 1194, 201-203, 226.7, 512, and *Business and Professions Code* §17200 *et seq.* by: (i) failing to properly pay employees overtime compensation for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week; (ii) failing to permit employees to take duty free meal and rest periods; and (iii) failing to properly pay all wages owed to employees upon termination of the employment relationship. Defendant denies each and every one of the allegations of unlawful conduct and has asserted a number of defenses to the claims.

3. **Class Definition** – The Class is defined as:

All current and former employees of AT SYSTEMS WEST, INC. (“Defendant”) who worked in California during the Class Period (July 12, 2000 to the present) as guard/messengers (the “Class”).

4. **Subclass Definitions** – The above Class is further divided into Subclasses, for purposes of enhancing manageability, as follows:

Overtime Subclass: All Class Members who performed overtime work in California and are entitled to overtime compensation as required by the applicable Wage Order(s) of the Industrial Welfare Commission, regulations, or statutes (the “Overtime Subclass”).

Meal and Rest Period Subclass: All Class Members who were not provided lawful meal and rest periods as required by the applicable Wage Order(s) of the Industrial Welfare Commission, regulations, or statutes (the “Meal and Rest Period Subclass”).

Labor Code Section 203 Subclass: All Class Members who were not fully paid wages as required by *Labor Code* § 201 and § 202, and are entitled to additional wages and/or penalties pursuant to *Labor Code* § 203 (the “Labor Code Section 203 Subclass”).

5. **Class Representative And Class Counsel** – Plaintiff Dean A. Doglietto represents the Class. The following attorneys represent the Class:

Westrup Klick, LLP
Duane Westrup
Lawrence Cagney
444 West Ocean Blvd
Suite 1614
Long Beach, CA 90802

Law Offices Of Michael L. Carver
Michael L. Carver
1550 Humbolt Road
Suite 1
Chico, CA 95928

Krieger & Krieger
A Law Corporation
Linda G. Krieger
249 East Ocean Blvd
Suite 750
Long Beach, CA 90802

6. **Substantive Motions** – The parties have already filed and litigated substantive pleadings and motions. After Plaintiff filed his Complaint on July 12, 2004, Defendant filed its Answer on August 10, 2004. Defendant then removed the case to the U.S. District Court, Eastern District of California. Plaintiff challenged the removal and at a hearing on October 18, 2004 before Judge Lawrence Karlton, the case was ordered remanded to state court. Thereafter, the parties continued to exchange discovery. Plaintiff filed his Motion for Class Certification, which was fully briefed by both parties, and came on hearing before Judge Thomas M. Cecil on October 6, 2005.

7. **The Order Certifying The Class** – By Order dated October 6, 2005, the Court certified this lawsuit to proceed as a Class Action pursuant to Section 382 of the California *Code of Civil Procedure*.

8. **Discovery** – This Action has been actively litigated since it was filed. The Orders entered by the Court in the Action can be reviewed during normal business hours, at the Civil Records Unit located at the Gordan D. Schaber Downtown Courthouse, 720 9th Street, Sacramento, CA 95816. Fact discovery in the Action is still continuing.

9. **Trial Date** – No date for trial in this Action has been set. Plaintiffs have requested a jury trial.

10. **Procedures** – This Notice is being sent to notify you of the pendency of the Action against AT Systems West, Inc. In the event any settlement is reached or Judgment is obtained against AT Systems West, Inc., only persons who do not exclude themselves from the Class at this time will be eligible to participate in a distribution of the settlement or Judgment proceeds. If you exclude yourself from the Class, you will not be eligible to participate in any settlement reached on behalf of the Class or in any Judgment obtained through trial. Section 12 of this Notice describes your rights as a Class Member.

In the event of a settlement, Plaintiff will be required to obtain preliminary approval of such settlement from the Court, including preliminary approval of a proposed plan of allocation of settlement proceeds. After preliminary approval is obtained, the Plaintiff must then send a Notice to Class Members, describing the proposed settlement and plan of allocation and the reasons for each. The Notice will provide Class Members, for a limited period of time, with a second opportunity to request to be excluded from the Class, but there can be no assurance that Class Members will be afforded such a second opportunity. The Court will only give final approval of a proposed settlement and plan of allocation if the Court finds them to be fair, adequate, and reasonable to the members of the Class.

Similarly, should the Class obtain a Judgment against Defendant, the Plaintiff will be required (a) to obtain preliminary approval from the Court of a proposed plan of allocation; (b) to send a Notice to Class Members describing the proposed plan and the reasons for it, which Notice will provide a period of time for Class Members to submit objections to the Court; and (c) to seek final approval from the Court, which may only approve a proposed plan if the Court finds it to be fair and reasonable.

11. **Class Counsels' Fee Agreement With Plaintiff** – Class Counsel agreed to undertake this litigation on an entirely contingent basis, meaning that Class Counsel is not compensated unless there is a recovery achieved for the Class. If there is a recovery for the Class, Class Counsel may make an application to be compensated and reimbursed legal fees and costs.

Any application for an award of attorneys' fees and reimbursement of litigation expenses by Class Counsel will be subject to Court approval. Before any such application for fees and expenses is determined, Class Counsel will be required to: (a) obtain preliminary approval for such application from the Court; (b) send a Notice to Class Members that describes the

application, which Notice will provide a period of time for Class Members to submit objections to the Court; and (c) seek final approval from the Court, which may only award attorneys' fees and reimbursement of expenses to Class Counsel if the Court finds such fees and expenses to be fair and reasonable.

12. **Your Rights As A Class Member** – Except for persons excluded from the Class, if you are or were employed by AT Systems West, Inc. in California as a guard/messenger employee during the Class Period, you are a Class Member. If you are a Class Member, you have the right to decide whether to remain a member of the Class. You may not elect to remain in the Class for purposes of asserting certain claims brought by the Plaintiff and also elect to be excluded from the Class for purposes of asserting, in an individual capacity, other claims arising from facts alleged in the Complaint.

**IF YOU CHOOSE TO REMAIN A CLASS MEMBER,
YOU DO NOT NEED TO DO ANYTHING AT THIS TIME. IF YOU DO
NOTHING, YOU WILL AUTOMATICALLY BE INCLUDED IN THE CLASS.**

If you choose to remain in the Class, you will be entitled to your share of any money awarded to the Class either through a settlement with the Defendant, or through a trial or Judgment of the Court. If the Court dismisses one or more of the claims against Defendant, or if the Defendant prevails at trial, you will be bound by that decision and all prior decisions of the Court. In other words, you will not be allowed to sue for your individual claims. If a settlement is reached or a judgment is entered which requires you to complete and submit any forms, you will receive further notification with copies of the forms and instructions.

If you choose to remain in the Class, you will not be personally responsible for the fees of Class Counsel or any of the costs they incur in representing you as a Class Member. As noted above, Class Counsel has agreed to represent the Class on a contingent basis, which means it will be awarded fees and costs only if it succeeds in obtaining money from the Defendant. Any such contingent attorney's fees will be awarded only if approved by the Court.

If you choose to remain in the Class, you may arrange to have your own attorney enter an appearance on your behalf in the Action if you so desire. If you appear in the Action through your own counsel, you will be solely responsible for that attorney's fees and expenses.

If you choose to remain in the Class, you will receive another notice concerning any settlement that may be reached with the Defendant, or after any Judgment is obtained against the Defendant.

13. **Request For Exclusion From The Class** – Under California law, if you are a member of the Class, you have the right to be excluded from the Class. If you wish to be excluded from the class, you must submit a written request for exclusion that includes: (1) your name, address, and telephone number, and signature; and (2) the following statement: "I want to be excluded from the Plaintiff Class in *Doglietto v. AT Systems West, Inc.*, Sacramento Superior Court Case No. 04AS02796". **Your mailed request for exclusion must be postmarked no later than April 17, 2005.** It must be mailed to:

Desmond, Marcello & Amster
6060 Center Drive, Suite 825
Los Angeles, CA 90045

The request for exclusion must be submitted in your own name and signed by you personally; no individual may request that other persons be excluded from the Class.

If you choose to be excluded from the Class, you will not be bound by the prior decisions of the Court in this Action or by any Judgment in this Action against the Defendant, whether favorable or unfavorable, and you will not be entitled to share in any money that is distributed to the Class.

If you want to attempt to pursue a claim on your own outside of the Action, and that claim arises from the facts alleged in the Complaint, then you must complete and submit a written request for exclusion from the Class as described above. If you choose to pursue a lawsuit on your own, you will be responsible personally for any fees and costs that your individual attorney charges you.

14. Please Keep Your Address Current – If you should change your address, or if this Notice is not mailed to your correct address, you should immediately provide your current address to the Class Administrator, as identified above, by letter, fax, or e-mail to ensure that you receive future communications about this lawsuit. If the Administrator does not have your correct address, you might not receive notice of important developments in this Action and you might not receive your share of any money recovered by the Class.

15. Additional Information – Do Not Contact The Court Regarding This Notice Or The Lawsuit. This Notice gives only a summary of this Action, the claims asserted by the Plaintiff, and the positions taken by the Defendant. For more detailed information, you may review the pleadings filed by Class Counsel and Defendant's Counsel and the written decisions and opinions issued by the Court in this Action during normal business hours, at the Civil Records Unit located at the Gordan D. Schaber Downtown Courthouse, 720 9th Street, Sacramento, CA 95816. Any additional inquiries should be made in writing and directed to the Class Administrator at the address set forth above.

Dated: March 14, 2006

SHELLEYANNE W.L. CHANG

THE HONORABLE SHELLEYANNE W.
L. CHANG
Sacramento County Superior Court Judge