

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STEPHEN J. DUARTE, on behalf of)	
himself and all others similarly situated,)	
)	
Plaintiff,)	Case No: 09-1366-JTM-DWB
)	
v.)	
)	
PPG INDUSTRIES, INC.,)	
)	
Defendant.)	

CORRECTIVE NOTICE

You may have received a letter in January 2010 from an individual named Geoff Hudson regarding this lawsuit (the “Hudson Letter”). The letter claimed that it was clarifying issues regarding lawsuits against PPG Industries, Inc. (“PPG”). Based upon the Court’s independent review of the Hudson Letter, however, the Court has determined that the letter may be inaccurate and misleading and may be confusing to TM's who have previously received the Notice of Corrective Action that was approved by this Court.. To clarify your rights and to clear up any confusion or misunderstanding, the Court has ordered this Corrective Notice to be sent to you.

NATURE OF THIS ACTION

This lawsuit was brought to determine whether individuals employed as Lowe’s Team Territory Managers (“Territory Managers”) are properly classified as exempt from the overtime provisions of the Fair Labor Standards Act (“FLSA”). The Court’s determination will depend on whether Plaintiff, and the individuals who consent to join this action as party plaintiffs, meet one or more of the defined exemptions under the FLSA. Plaintiff contends that Territory Managers do not qualify as exempt and are therefore entitled to overtime pay. PPG contends that Territory Managers are paid a salary for all hours worked and that they are properly classified as exempt.

On January 14, 2010, the Court granted “conditional certification” of this action and ordered that notice be mailed to current and former Territory Managers, inviting them to join this action as party plaintiffs. The Court approved the content of the notice and consent to join forms. The Hudson Letter attempts to arouse suspicion by noting that the notice was mailed from Pittsburgh but included the Kansas return address of plaintiff’s counsel. In fact, the Court’s order required PPG to mail the notice and to subsequently file a certificate with the Court stating that the mailing had in fact occurred. PPG agreed to use plaintiff’s counsel’s

return address on the mailing so that plaintiff's counsel could assume responsibility for notices that were returned as undeliverable by the Postal Service.

THE HUDSON LETTER

The Hudson Letter also contains several other claims or suggestions: (1) that it was somehow improper for PPG to inform current Territory Managers that they would soon be receiving a mailing regarding this lawsuit and that the company would not retaliate against them based upon their decision whether to join the lawsuit; (2) that PPG will have an unfair advantage in this case because this Court interprets the exempt status of individuals under the FLSA more broadly than other courts; (3) that Courts in the Tenth Circuit, including this Court, calculate damages using a formula that would pay out one-third of what damages would be in the Pennsylvania court in which the author's action is pending; and (4) that plaintiff's counsel does not practice employment law and that it lacks the resources or the capabilities to cover the workload of a nationwide class action.

You should be aware that all of these suggestions and statements are wholly unsupported by any factual or legal basis in the letter and are being made without any prior review or approval of either the United States District Court for the Western District of Pennsylvania or the United States District Court for the District of Kansas concerning the truthfulness or accuracy of the allegations and suggestions. They are nothing more than the unsupported opinions of the letter writer.

Because of the procedure concerning collective actions, the Court is not in a position at this stage of the proceedings to make a formal ruling concerning the truthfulness or accuracy of the statements in the Hudson letter, and is not in a position to express any opinion with respect to the comparative qualifications of plaintiff's counsel in this case and the Pennsylvania lawsuit, or any other lawyer. Only you can decide whether to opt-in to this present action and whether to retain counsel and, if so, which counsel to retain. In making those decisions, however, you should make every effort to ascertain whether communications you receive that have not been approved and authorized by the Court are truthful and accurate.

COMMUNICATIONS WITH POTENTIAL CLASS MEMBERS

You are not prohibited from communicating directly with other potential members of this collective action. However, you should be wary of any communications you receive that have not been authorized by this Court or by any other Court in which a similar lawsuit has been filed. If you receive any further unauthorized communications about this lawsuit, please inform plaintiff's counsel:

Ray E. Simmons and Mark G. Ayesh
Ayesh Law Offices
8100 East 22nd Street North
Building 2300, Suite 2

Wichita, KS 67278
Phone: (316) 682-7381
Fax: (316) 682-1729
E-mail: rsimmons@ayesh.kscoxmail.com

Notifying plaintiff's counsel of such communications will serve to protect your rights and the rights of all potential members of this collective action, as well as to respect this Court's ability to preside over an action pending before it.

If you have questions about this lawsuit or your rights, you may contact class counsel authorized by the Court using the contact information set forth above, or consult another attorney of your choosing.

**THIS CORRECTIVE NOTICE HAS BEEN APPROVED BY ORDER OF
U.S. MAGISTRATE JUDGE DONALD W. BOSTWICK
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS
FEBRUARY 11, 2010**