

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STEVEN CRAIG KELLY and JACK CLARK,
individually and on behalf of others similarly
situated,

Case No. 08-cv-401-bbc

Plaintiffs,

v.

BLUEGREEN CORPORATION,

Defendant.

NOTICE OF PENDENCY OF LAWSUIT

**TO: ALL PRESENT AND FORMER SALES REPRESENTATIVES WHO WORKED FOR
BLUEGREEN CORPORATION FROM [DATE] TO THE PRESENT.**

**RE: FAIR LABOR STANDARDS ACT OVERTIME LAWSUIT FILED AGAINST
BLUEGREEN CORPORATION**

INTRODUCTION

The purpose of this Notice is to inform you of a collective action lawsuit in which you are potentially “similarly situated” to the named Plaintiffs, to advise you of how your rights may be affected by this lawsuit, and to inform you of the procedure to make a claim if you choose to do so.

DESCRIPTION OF THE LAWSUIT

On July 17, 2008, a lawsuit was filed against Defendant Bluegreen Corporation ("Bluegreen") on behalf of the Named Plaintiffs Steven Craig Kelly and Jack Clark and all other similarly situated individuals who worked as sales representatives for Bluegreen and were paid commissions only for all or part of their employment with Bluegreen during the past three years (collectively referred to as the “potentially similarly

situated group”). Specifically, the lawsuit alleges that these individuals are owed overtime pay under the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207, for hours worked in excess of forty (40) per week, and minimum wage compensation under the FLSA, 29 U.S.C. § 206. Plaintiffs also seek an additional amount as liquidated damages, as well as attorneys’ fees and costs. This litigation is currently in the early pretrial stage.

Bluegreen has filed a document with the Court denying any and all liability, and denying that Mr. Kelly, Mr. Clark, or any other sales representative is owed any additional sum of money for minimum wage or overtime compensation.

PERSONS ELIGIBLE TO RECEIVE THIS NOTICE

The U.S. District Court has ordered this FLSA Notice be distributed to:

All persons who are or have worked for defendant as a sales representative anywhere in the United States at any time from February 18, 2006 to the present who:

- (a) were paid commissions only for some or all of their employment with Bluegreen, and
- (b) were not paid for all hours worked in excess of 40 hours per week; or
- (c) were not paid minimum wage compensation.

YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

If you fit the definition above, you may choose to join this lawsuit by mailing or faxing the attached “Plaintiff Consent Form” to Plaintiffs’ counsel at the following address:

Nichols Kaster, PLLP
Attn. Matthew H. Morgan
4600 IDS Center, 80 South Eighth Street
Minneapolis, MN 55402-2242
Toll-Free Telephone: (877) 448-0492
Facsimile: (612) 215-6870
Website: www.overtimecases.com

The "Plaintiff Consent Form" must be received in sufficient time for Plaintiffs counsel to file it with the

Court on or before **May 18, 2009**.

EFFECT OF JOINING OR NOT JOINING THIS LAWSUIT

If you choose to join this lawsuit, you and Bluegreen will be bound by any ruling, judgment, award or settlement, whether favorable or unfavorable. If you join the lawsuit, you may be required to respond to written questions, sit for a deposition, and testify in court. If you do not join this lawsuit, you will not be bound by any ruling, judgment, award, or settlement, entered in this case, favorable or unfavorable. If you do not wish to join this lawsuit, you are free to take action on your own.

If you file a "Plaintiff Consent Form" your continued right to participate in this lawsuit will depend upon a later decision by the Court that you and the named Plaintiff are "similarly situated" in accordance with applicable laws, and that it is appropriate for this case to proceed as a collective action.

STATUTE OF LIMITATIONS

The FLSA has a maximum statute of limitations of three years. If you choose to join this lawsuit, or choose to bring your own lawsuit, you may be able to recover damages if you were improperly denied overtime compensation and/or minimum wage compensation only during weeks worked within three years of the date you file your "Plaintiff Consent Form." If you choose not to join in this lawsuit or file your own lawsuit, some or all of your potential claims may later be barred by the applicable statute of limitations.

NO RETALIATION PERMITTED

The law prohibits retaliation against employees for exercising their rights under the FLSA. Therefore, Bluegreen is prohibited from discharging you or retaliating against you in any other manner because you choose to participate in this lawsuit.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this case by filing a Plaintiff Consent Form, you will be agreeing to

representation by Plaintiffs' counsel,

Nichols Kaster, PLLP
Donald H. Nichols, Paul J. Lukas, and Matthew H. Morgan
4600 IDS Center, 80 South 8th Street
Minneapolis, MN 55402
Toll Free Telephone: (877) 448-0492
Facsimile: (612) 215-6870
Website: www.overtimecases.com

The attorneys are being paid on a contingency fee and/or statutory basis, which means that if there is no recovery, there will be no attorneys' fees. If there is a recovery, the attorneys will receive a part of any settlement obtained or money judgment entered in favor of all members of the class. The specific terms and conditions of representation will be contained in a fee agreement entered into by the attorneys and you.

FURTHER INFORMATION

Further information about this lawsuit or this notice can be obtained by contacting Plaintiffs' counsel at the address or toll-free telephone number provided above.

CONCLUSION

THIS NOTICE AND ITS CONTENT HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN, THE HONORABLE BARBARA B. CRABB, UNITED STATES DISTRICT COURT JUDGE. THE COURT HAS MADE NO DECISION IN THIS CASE ABOUT THE MERITS OF PLAINTIFFS' CLAIMS OR OF DEFENDANT'S DEFENSES.

BLUEGREEN CORPORATION
PLAINTIFF CONSENT FORM

I hereby consent to make a claim against Bluegreen Corporation for overtime and/or minimum wage pay. If this case does not proceed collectively, I also consent to join any subsequent lawsuit to assert these claims against Bluegreen. During the past three years there were times that I worked over 40 hours per week as a commission-only sales representative and did not receive overtime compensation and/or the minimum wage.

Signature Date

Print Name

Address (with apartment number if applicable)

City, State, Zip Code

Home Telephone

Mobile Telephone

E-Mail Address

Emergency Contact (and phone number)

Fax, Mail or Email to: Nichols Kaster, PLLP
Attn: Matt Morgan
4600 IDS Center, 80 South Eighth Street
Minneapolis, MN 55402-2242
Pax: (612) 215-6870
Toll Free Telephone: (877) 448-0492
Email: morgan@nka.com