

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
BRUNSWICK DIVISION**

**TAMMY KERCE on behalf of herself and  
all those similarly situated,**

**Plaintiff,**

**v.**

**WEST TELEMARKETING  
CORPORATION and WEST  
TELEMARKETING, L.P.,**

**Defendants.**

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\*  
\* **CIVIL ACTION**  
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\* **FLSA COLLECTIVE ACTION**  
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\* **CASE NO. CV207-081**  
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**IMPORTANT DISCLAIMER**

**THE COURT EXPRESSES NO OPINION REGARDING THE MERITS OF THIS CASE.  
THE COURT HAS MADE NO DETERMINATION OF LIABILITY.  
THE COURT TAKES NO POSITION REGARDING WHETHER OR NOT YOU SHOULD  
JOIN THIS LAWSUIT.**

**PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THIS LAWSUIT**

**NOTICE OF COLLECTIVE ACTION**

**NOTICE OF YOUR RIGHTS IN CONNECTION WITH PENDING FAIR LABOR  
STANDARDS ACT LAWSUIT AGAINST WEST TELEMARKETING CORPORATION  
(hereinafter referred to as “West Telemarketing”):**

**TO:** All persons who worked as independent contractor Home Agents (hereinafter referred to as “Contract Home Agents”) for West Telemarketing from June 1, 2005 until the present.

**FROM:** Counsel for the Plaintiff:

Roman A. Shaul  
**BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.**  
Post Office Box 4160  
Montgomery, Alabama 36103-4160  
(Toll Free Number) 1-877-818-1086  
(Fax Number) 334-954-7555

Mark D. Johnson  
**GILBERT, HARRELL, SUMERFORD & MARTIN, P.C.**  
Post Office Box 190  
Brunswick, Georgia 31521-0190

**I. INTRODUCTION**

The purpose of this Notice is: (1) to inform you of a collective action lawsuit that you may be able to join to make a claim for allegedly unpaid wages and possible overtime pay, (2) to advise you of how your rights may be affected by this lawsuit, (3) to inform you how to make a claim, if you so desire, (4) to clarify that you have no obligation to join this lawsuit, and (5) to assure you that your right to assert your own individual claim will not be diminished if you choose not to participate in this collective action.

**II. DESCRIPTION OF THE LAWSUIT**

On June 26, 2007, Plaintiff Tammy Kerce filed a complaint in the United States District Court for the Southern District of Georgia against West Telemarketing. The case number is: CV207-081.

The Plaintiff alleges that she and other similarly situated Contract Home Agents were improperly classified as “independent contractors” by West Telemarketing when they should properly have been classified as “employees,” and that as a result: (1) they did not always receive the equivalent of the federal minimum wage for employees, and (2) they worked more than 40 hours during some weeks and were not paid the federally required overtime rate of pay for employees. The Plaintiff alleges that by not paying her correctly, including not paying her for time spent training, West Telemarketing violated the Fair Labor Standards Act of 1938, 29 U.S.C. §216(b).

West Telemarketing denies these allegations and is opposing Plaintiff's claims. West Telemarketing asserts, in part, that the Contract Home Agents were properly classified as "independent contractors," and, as a result, they were properly paid. Moreover, West Telemarketing asserts that even if the Contract Home Agents should have been classified as "employees," which West Telemarketing disputes, time spent training would still not be compensable under the Fair Labor Standards Act of 1938, 29 U.S.C. § 216(b).

The Plaintiff seeks to recover allegedly unpaid wages, overtime compensation, liquidated damages, an award of attorneys' fees, costs, expenses, and such other relief as the Court may deem proper. West Telemarketing denies that Plaintiff is entitled to recover any of the relief sought.

### **III. YOUR RIGHT TO JOIN THIS LAWSUIT AS A PLAINTIFF**

If you worked with West Telemarketing as a Contract Home Agent anytime between June 1, 2005 and today, you may have the ability to pursue a claim against West Telemarketing by joining this lawsuit. To do that, you must 1) SIGN, 2) DATE, and 3) MAIL the attached form that is titled *Consent to Become a Party Plaintiff*. For your convenience, there is a self-addressed, stamped envelope enclosed and filled out to the attention of Roman A. Shaul at the law firm of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., one of the attorneys representing Plaintiff in this case.

### **IV. THE LEGAL EFFECT OF JOINING THIS LAWSUIT**

If you choose to join this lawsuit, your claims will be decided by the United States District Court for the Southern District of Georgia and you will be bound by any rulings entered in this case, whether favorable or unfavorable. You will be part of the case and will be represented by Plaintiff and her attorneys. You are not required to pay any money to join this

lawsuit. While the lawsuit is proceeding, you may be called upon to answer questions, appear for a deposition in Brunswick, Georgia or elsewhere as the parties may agree, or to give testimony in court in Brunswick, Georgia. If you choose to join this lawsuit, you could receive an award from the Court. However, if you are successful, Plaintiff's attorneys may receive a percentage of the award, if any, and reimbursement of the expenses of the litigation. If Plaintiff is successful in obtaining an award from the Court, Plaintiff's attorneys will also ask the Court to require West Telemarketing to pay their attorneys' fees and certain costs associated with the case as part of a final judgment. If West Telemarketing prevails, you will receive no award, and you may be liable for certain of West Telemarketing's court costs.

**V. LEGAL EFFECT OF NOT JOINING THIS LAWSUIT**

If you choose not to join this lawsuit, you will not be bound by any ruling of the Court or participate in any settlement, favorable or unfavorable. You may file your own lawsuit within the time provided by law to do so.

**VI. HOW AND WHEN TO JOIN THIS LAWSUIT**

If you wish to participate in this lawsuit, you must sign and date the attached Consent to Become a Party Plaintiff form (hereinafter referred to as the "Consent Form") and mail it to the Plaintiff's lawyer in this case:

Roman A. Shaul  
**BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.**  
Post Office Box 4160  
Montgomery, Alabama 36103-4160  
(Toll Free Number) 1-877-818-1086

The Consent Form must be received by Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. by December 8, 2008, so that the Plaintiff's attorney may file it with the Clerk of the United States District Court in Brunswick, Georgia.

**VII. NO RETALIATION OR DISCRIMINATION IS PERMITTED AGAINST YOU**

**Important Note:** Federal law prohibits West Telemarketing from retaliating against you in the workplace because you have exercised your rights under the Fair Labor Standards Act to participate in this lawsuit.

**VIII. YOU WILL HAVE LEGAL REPRESENTATION IF YOU JOIN THE LAWSUIT**

If you choose to join this lawsuit you will be represented by the attorneys representing Plaintiff Tammy Kerce and the class, unless you obtain your own attorney. The attorneys for Tammy Kerce and the class are:

Mr. Roman A. Shaul  
Mr. C. Lance Gould  
**BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.**  
Post Office Box 4160  
Montgomery, Alabama 36103-4160  
(Toll Free Number) 1-877-818-1086  
(Fax Number) 334-954-7555

Mr. Mark D. Johnson  
Mr. James L. Roberts, IV  
**GILBERT, HARRELL, SUMERFORD & MARTIN, PC.**  
Post Office Box 190  
Brunswick, Georgia 31521-0190

**IX. ADDITIONAL INFORMATION**

For further information about this lawsuit and for additional Consent To Become a Party Plaintiff forms, you may telephone Plaintiff's attorney at the following telephone number:  
  
1-877-818-1086.

**Dated: September 9, 2008.**