

**ATTENTION: FORMER AND CURRENT DAWN BARNES  
KARATE KIDS INSTRUCTORS AND DESK STAFF**

**TO: ALL PERSONS WHO WERE EMPLOYED BY DAWN BARNES KARATE KIDS, INC. AT ANY TIME BETWEEN FEBRUARY 22, 2004 AND THE TRIAL IN THIS MATTER**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.**

**THE COURT HAS NOT RULED ON ANY OF THE CONTENTIONS OF THE PARTIES. THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES ASSERTED BY ANY PARTY.**

**BACKGROUND OF THE CASE**

Plaintiff Tom Dubitsky (“Dubitsky”), a former employee at Dawn Barnes Karate Kids, has sued Dawn Barnes Karate Kids, Inc. (“DBKK”) on behalf of all people employed as DBKK Instructors and Desk Staff in California at any time from February 22, 2004 to the trial in this matter. Pursuant to a hearing held on February 9, 2009, this Court has ordered that this matter may proceed as a class action for all purposes. According to DBKK’s records, you fall within the class.

**NATURE OF THE CLAIMS**

The lawsuit alleges that DBKK failed to pay its employees for all hours worked, failed to reimburse employee expenses, and failed to provide accurate wage statements. Dubitsky contends that DBKK employees were required to take part in weekly training sessions as a condition of their employment, but were not compensated for the time spent at these sessions. Dubitsky also contends that DBKK employees should have been compensated when they attended training and then worked later on that same day. Dubitsky further contends that DBKK employees were not reimbursed for expenses they incurred with regard to purchase and maintenance of uniforms and training with Sensei Farkas. The lawsuit alleges that DBKK’s practices violate California’s labor and unfair competition laws, and seeks compensation for unpaid wages, employee expenses, waiting time penalties, and interest on these sums from DBKK.

DBKK denies these claims and contends that it properly compensated its employees because the weekly sessions were voluntary workouts that the employees were offered as part of their employment at DBKK.

The Court has not made a determination as to whether DBKK employees have been paid for all hours worked, or whether DBKK should have reimbursed employee expenses incurred.

**CHANGE OF ADDRESS**

If you change your address after receiving this notice, or this notice was sent to the wrong address, you should supply your name and correct address to the attorneys listed below. This is important so that future notices reach you.

**NOTICE OF ATTORNEYS OF RECORD**

**Plaintiff’s Class Counsel**

Patricio T.D. Barrera, Esq.  
Ashley A. Davenport, Esq.  
BARRERA & ASSOCIATES  
1500 Rosecrans Avenue, Suite 500  
Manhattan Beach, CA 90266  
Telephone: (310) 802-1500

**Attorneys for Defendant DBKK**

Fred A. Fenster, Esq.  
Rosslyn (Beth) Hummer, Esq.  
RUTTER HOBBS & DAVIDOFF, INC.  
1901 Avenue of the Stars, Suite 1700  
Los Angeles, CA 90067  
Telephone: (310) 286-1700

The only purpose of this Notice is to let you know about the lawsuit. No settlements or judgments have been entered against any party, and not money or other things of value are being distributed at this time. You do not need to make any claim at this time. In the event of any judgment or settlement, you may receive additional notice as determined by the Court.

### **ELECTION TO OPT OUT OF THE LAWSUIT**

If you choose to remain a member of the Class, you do not need to do anything at this time. Your rights will be represented by Plaintiff's Class Counsel listed above.

If you do not wish to participate in this lawsuit, you may be excluded if you mail a form indicating your desire to exclude yourself from the lawsuit by July 10, 2009. A class member may be excluded from the class by filing an Election to be Excluded from the Class, which is discussed below. In other words, you have the choice of remaining in the class or electing to exclude yourself from the class.

#### **If you remain a class member:**

1. You will receive notice of any rulings affecting the size of the Class and notice of any proposed settlement or any judgment rendered. However, you may enter an appearance through another attorney by mailing a Notice of Appearance to the clerk of the Court at the address for the clerk set forth below.
2. You will be bound by any judgment or other final disposition of the class lawsuit whether that disposition is favorable or unfavorable.
3. You will participate upon proof of membership, and filing of a proper claim form, in distribution of any damages recovered in the litigation.

#### **If you elect to be excluded from the class:**

1. You will not be bound by any disposition of the class action and will retain any claims you may have against DBKK.
2. You will not share in any recovery which might be paid to class members if the class representatives are successful in trial or from any settlement.

### **WHAT TO DO**

To exclude yourself from the class, you must complete the enclosed Election to be Excluded from Class form and return it to the Third Party Administrator at the following address:

#### **Third Party Administrator**

Dubitsky v. Dawn Barnes Karate Kids Class Action  
c/o Desmond, Marcello & Amster  
P.O. Box 451999  
Los Angeles, CA 90045

### **RECORDS OF THIS LITIGATION**

The pleadings and all other records from this litigation may be examined and copied at any time during the regular office hours (between 9:00 a.m. and 4:00 p.m.) of the Clerk of the Court in the Civil Records Department at the Stanley Mosk Courthouse, located at 111 N. Hill Street, Los Angeles, CA 90012-3014.

**PLEASE DO NO CALL OR WRITE TO THE COURT OR THE CLERK OF THE COURT.  
ADDRESS ALL INQUIRIES TO THE ATTORNEYS FOR THE CLASS SET FORTH ABOVE.**

Dated: May 22, 2009

Honorable Kenneth R. Freeman  
Los Angeles County Superior Court