

**If You Worked for an AutoNation, Inc.  
Dealership in Washington State During 2004 and 2005,  
Please Read This Notice – It May Affect Your Rights Regarding an  
Award of More than \$1.2 Million in Damages to Current and  
Former Employees**

**INTRODUCTION**

You received this notice because you may be a Class member in the vacation pay lawsuit brought against AutoNation, Inc. and its affiliated dealerships in Washington State (collectively “AutoNation”). The case was filed in Spokane Superior Court for the State of Washington under the title *McGinnity, et al. v. AutoNation, Inc., et al.*, Cause No. 06-2-01941-0. It was later moved to arbitration before the Retired Judge James M. Murphy (the “Arbitrator”). The named Plaintiffs and Class representatives are Alan McGinnity, Terry DeWitt and Russell McDuffie.

In November 2007 the case was tried to the Arbitrator in Spokane, Washington. Based on the evidence presented, the Arbitrator ruled that AutoNation violated contractual obligations when it failed to give Class members the paid vacation benefits they had earned between their 2004 and 2005 anniversary dates. **The Arbitrator awarded the Class a total of \$1,217,954.49 in damages (the “Common Fund”).** This award is based on the value of the paid vacation time to which each Class member was entitled as of his or her 2005 anniversary date. The Arbitrator ruled that any Class member who was not employed as of his or her 2005 anniversary date is not entitled to recover. A copy of the written decision that the Arbitrator issued on January 24, 2008 is available at [www.vacationpaylawsuit.com](http://www.vacationpaylawsuit.com).

The following notice provides information about the final stages of the litigation and the manner in which the Arbitrator will divide the Common Fund. **Please read this notice carefully. It contains important information about your rights.**

**PLAINTIFFS’ REQUEST FOR PREJUDGMENT  
AND POST-JUDGMENT INTEREST**

Plaintiffs will ask the Arbitrator to grant prejudgment interest at a rate of 12 percent per annum on the damages awarded to the Class. Plaintiffs estimate that the total amount of interest accrued through the date of the Arbitrator’s decision is \$377,523.32. Plaintiffs estimate that an additional \$400.42 in interest will accrue each day thereafter until judgment is satisfied. If the Arbitrator grants Plaintiffs’ request, the prejudgment interest awarded will be added to the Common Fund.

Plaintiffs will also ask the Arbitrator to award post-judgment interest at the rate of 12 percent per annum on the damages and prejudgment interest awards and on any separate awards of attorneys' fees and costs. Any post-judgment interest paid on the damages and prejudgment interest awards will be added to the Common Fund.

### **CLASS COUNSELS' REQUEST FOR ATTORNEYS' FEES AND COSTS**

Class Counsel will ask the Arbitrator to grant them an award of attorneys' fees based on three different theories. First, Class Counsel will ask the Arbitrator to require AutoNation to pay the fees they have incurred pursuant to a state statute. Second, Class Counsel will ask the Arbitrator to require AutoNation to pay the fees they have incurred pursuant to a court rule. If Class Counsel prevail on either of these theories, AutoNation will have to pay the awarded attorneys' fees separately from and in addition to the Common Fund. If Class Counsel do not recover the full amount of attorneys' fees incurred to date based on these two theories, Class Counsel will ask the Arbitrator to award the difference from the Common Fund. This request will be based on the principle that if an attorney creates a fund to which others have a claim, then the attorney is entitled to recover from the fund the litigation costs and attorneys' fees incurred in doing so.

Class Counsel will also ask the Arbitrator to grant them an award of litigation costs based on two different theories. First, Class Counsel will ask the Arbitrator to require AutoNation to pay incurred costs pursuant to state statutes and court rules. If Class Counsel prevail on this theory, AutoNation will have to pay the awarded costs separately from and in addition to the Common Fund. Second, Class Counsel will ask the Arbitrator to award all remaining incurred costs from the Common Fund, including those not awarded pursuant to state statute or court rule.

Any attorneys' fees and costs awards will compensate Class Counsel for the time and expense advanced over the past two years, which involved extensive investigation, analysis and litigation of this matter, as well as the continued case administration. Class Counsel prosecuted the claims of the named Plaintiffs and Class members on a contingent fee basis, investing significant time and accumulating costs with no guarantee that Class Counsel would receive any compensation for their services or recover any of their expenses. To date, Class Counsel have incurred over \$600,000 in fees and \$84,000 in costs while prosecuting this matter.

### **PLAINTIFFS' REQUEST FOR INCENTIVE AWARDS**

Plaintiffs will ask the Arbitrator to grant them "incentive awards." An incentive award is an allotment given to a class representative in addition to the amount the representative would otherwise be entitled to recover as a class member. The purpose of the award is to compensate the class representative for services provided and risks incurred during the course of the litigation. In this case, for example, the named Plaintiffs expended time and effort assisting Class Counsel with the litigation, including advising and assisting counsel in the prosecution of the case, participating in discovery, and attending trial.

Plaintiffs will seek incentive awards of \$15,000 for Mr. McGinnity and \$7,500 each for Ms. DeWitt and Mr. McDuffie. Plaintiffs are seeking a higher amount for Mr. McGinnity because he instituted the lawsuit and participated in the action to the greatest extent. If approved, the incentive awards will be deducted as litigation expenses from the Common Fund.

## **YOUR RIGHT TO SUBMIT WRITTEN COMMENTS OR OBJECTIONS**

If you want to comment on or object to Plaintiffs' and Class Counsels' requests to deduct attorneys' fees, costs or incentive awards from the Common Fund, you must do so by sending a letter to AutoNation Class Action Common Fund Requests, c/o Tousley Brain Stephens PLLC, 1700 Seventh Avenue, Suite 2200, Seattle, Washington, 98101-4416. If you are submitting an objection, please note it is not sufficient to simply state that you object; rather, you must provide the specific reasons for your objection. The letter must include your name, address and social security number and must be dated and signed by you. **In order to be considered by the Arbitrator, the letter must be post-marked no later than February 27, 2008.**

## **DISTRIBUTION OF THE COMMON FUND**

Plaintiffs intend to propose the following distribution plan to the Arbitrator: After the Arbitrator issues his final rulings and award, Plaintiffs will seek to have the award confirmed and judgment entered in Spokane Superior Court. When AutoNation satisfies the judgment, Class Counsel will deposit those funds into a trust account. Class Counsel will withdraw any funds that the Arbitrator has awarded to Plaintiffs and Class Counsel, including awards from the Common Fund. Class Counsel will then distribute the remainder of the Common Fund to the Class based on each member's proportional share. Barring an appeal by AutoNation or unforeseen events, Plaintiffs estimate that this process will take 60 to 90 days.

## **INFORMATION UPDATE**

If you have recently moved or would otherwise like to update your contact information, please send a letter with your name, address, social security number and phone number to AutoNation Class Action Contact Update, c/o Tousley Brain Stephens PLLC, 1700 Seventh Avenue, Suite 2200, Seattle, Washington, 98101. You may also call 1-877-747-9016 or email [tmarshall@tousley.com](mailto:tmarshall@tousley.com).

## **NON-RETALIATION STATEMENT**

AutoNation cannot legally retaliate against you for being a Class member or participating in this lawsuit.

## **OBTAINING MORE INFORMATION**

**If you have any questions or concerns, please call Class Counsel at**

**1-877-747-9016**

**Additional information is and will be available at this website:**

**[www.vacationpaylawsuit.com](http://www.vacationpaylawsuit.com)**

### **The attorneys representing the Class are:**

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**[Front of outside of mailing (No. 10 envelope):]**

Tousley Brain Stephens PLLC  
1700 Seventh Avenue, Suite 2200  
Seattle, Washington 98101-4416

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Return Service Requested

**LEGAL NOTICE ABOUT WASHINGTON STATE  
CLASS ACTION AGAINST AUTONATION, INC. DEALERSHIPS**

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**[Back of outside of mailing:]**

**If you were employed by an  
AutoNation, Inc. dealership in  
Washington State during 2004 and 2005,  
the enclosed notice may affect your rights.**