

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

LARRY SMALL, KENNETH CHARLES,
GLEN CADOGAN, THEONHILIUS
THOMAS And MICHAEL GITTENS on
behalf of themselves and others similarly
situated,

Plaintiffs,

vs.

BRINDERSON CONSTRUCTORS INC.,
DOES 1-50, inclusive,

Defendants

Case No.: 04CC00717

Assigned to the Honorable Gail A. Andler
Department CX102

**CLASS NOTICE OF JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE**

**TO: ALL BUILDING AND CONSTRUCTION TRADE EMPLOYEES, EXCLUDING
MANAGEMENT EMPLOYEES, WHO PERFORMED WORK FOR BRINDERSON
CONSTRUCTORS, INC. FROM DECEMBER 21, 2000 TO APRIL 8, 2010.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

SIGN AND RETURN THE CLAIM FORM WITHIN 60 DAYS	Receive your share of the Settlement. Give up certain rights.
ASK TO BE EXCLUDED	Send a Request for Exclusion within the next 30 days. You do not receive your share of the Settlement. But you keep any rights to sue Brinderson Constructors, Inc. separately at your own expense about the same legal claims in this lawsuit.
DO NOTHING	If you do nothing, you will not receive your share of the Settlement and you will give up any rights to sue Brinderson Constructors, Inc. separately about the same legal claims in this lawsuit.

PLEASE READ THIS NOTICE CAREFULLY – IT PERTAINS TO A CLASS ACTION THAT AFFECTS YOUR RIGHTS.

IF YOU WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT OF THIS CLASS ACTION, YOU NEED TO COMPLETE AND RETURN THE ENCLOSED CLAIM FORM NOT LATER THAN JULY 5, 2010, (60 DAYS) AFTER THIS NOTICE WAS MAILED.

IF YOU WISH TO EXCLUDE YOURSELF FROM THE SETTLEMENT AND NOT RECEIVE YOUR SHARE OF THE SETTLEMENT, YOU MUST COMPLETE AND RETURN THE ENCLOSED EXCLUSION FORM NOT LATER THAN JUNE 4, 2010, (30 DAYS) AFTER THIS NOTICE WAS MAILED.

IF YOU WISH TO COMMENT IN FAVOR OF THE SETTLEMENT OR OBJECT TO THE SETTLEMENT, YOU MUST FOLLOW THE DIRECTIONS IN THIS NOTICE.

Pursuant to the order dated April 8, 2010 of the Superior Court of the State of California, for the County of Orange, **YOU ARE HEREBY NOTIFIED AS FOLLOWS:**

A proposed settlement (the "Settlement") has been reached between the parties in this class action pending in Superior Court of the State of California, for the County of Orange (the "Court"), brought on behalf of certain individuals who worked as building and construction trade employees, excluding management employees, for Brinderson Constructors, Inc. from December 21, 2000 to April 8, 2010. This class action brings claims under the California Labor Code, and essentially contends that class members were not fully compensated for all hours worked, were not paid for certain travel time, did not receive pay for missed meal periods and/or rest breaks, and did not receive all the wages due to them at the time of their separation from employment with Brinderson.

The Court has preliminarily approved the Settlement and conditionally certified the settlement class for purposes of the Settlement only. You have received this notice because Brinderson's records indicate that you are a member of the Settling Class. This notice is designed to inform you of how you can make a claim under the Settlement, comment in favor of the Settlement or object to the Settlement, or elect not to be bound by the Settlement.

Depending on the actions you take (or don't take), one of three things will happen: (i) if you timely submit a Claim Form, and the Settlement receives final approval from the Court, you will receive your share of the Settlement, all claims covered by this Settlement will be extinguished, and you will forfeit your right to bring or participate in a similar action against Brinderson; (ii) if you timely file a Request for Exclusion, you will not receive your share of the Settlement, but all your claims will be preserved, even if the Settlement receives Final Approval from the Court; (iii) if you do not timely submit a Request for Exclusion or a Claim Form, and if the Settlement receives final approval from the Court, you will not receive a payment, claims covered by the Settlement will be extinguished, and you will forfeit your right to bring or participate in a similar action against Brinderson.

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BASIC INFORMATION

1. WHY DID I GET THIS NOTICE?

Brinderson Constructors Inc.'s ("Brinderson") records show that you currently work, or previously worked, for Brinderson Constructors Inc. This notice explains that the parties have reached a Settlement Agreement of their class action lawsuit that affects you. You have legal rights and options that you may exercise before the Court approves the Settlement Agreement. The Honorable Gail A. Andler of the Superior Court for the County of Orange is overseeing this class action. The lawsuit is known as *Small v. Brinderson*, Case Number 04CC00717.

2. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is about whether Brinderson properly paid its California employees, provided them the meal and rest breaks to which they were entitled, and paid its terminated employees all wages due.

3. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, one or more people called "Class Representatives" (in this case Larry Small, Kenneth Charles, Glen Cadogan, Theonhilus Thomas, and Michael Gittens) sue on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." The employees who sued—and all the Class Members like them—are called the Plaintiffs. The company they sued (in this case Brinderson) is called the Defendant. A court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

THE CLAIMS IN THE LAWSUIT

4. WHAT ARE THE CLAIMS MADE BY PLAINTIFFS?

The Named Plaintiffs, who were employed by Brinderson on a non-exempt (i.e., overtime eligible) basis, filed a complaint commencing the above-captioned action in the Superior Court of the State of California, County of Orange on December 21, 2004, bearing the case number 04CC00717 (the "Lawsuit"). The operative Second Amended Complaint was filed on May 6, 2005. On June 23, 2008, the Honorable Gail A. Andler certified a class of: "All building and construction trade employees, excluding management employee, who performed work for Brinderson Constructors, Inc. from December 21, 2000 to April 8, 2010," with three subclasses.

The Lawsuit, brought on behalf of an alleged class of approximately 5,700 building and construction trade employees ("Plaintiffs" or "Class Members") who worked for Defendant from December 21, 2000 to April 8, 2010, alleges numerous claims under the California Labor Code, including:

A) The failure to pay overtime in certain circumstances pursuant to Labor Code section 510 and Industrial Welfare Commission ("IWC") Wage Order 16-2001;

B) The failure to provide a first meal period beginning within the first five hours and a second meal period to Plaintiffs who worked more than 10 hours per day or pay Plaintiffs one extra hour of pay for each day in which they were not provided with a second meal period, as required by Labor Code section 226.7 and IWC Order 16-2001;

C) The failure to pay for compulsory travel time as required under *Morillion v. Royal Packing Co.* (2000) 22 Cal. 4th 575; and

D) The failure to pay all wages due at the time of termination, pursuant to Labor Code §§ 201-203 ("waiting time penalties").

5. HOW DOES BRINDERSON ANSWER?

Brinderson contends that Named Plaintiffs and the Class Members were paid in accordance with all applicable federal, state, and local laws, regulations, and ordinances.

6. HAS THE COURT DECIDED WHO IS RIGHT?

The Court hasn't decided whether Brinderson or the Plaintiffs are correct. While the Court has granted Class Certification, the outcome at trial is uncertain and the parties have elected to settle the matter to avoid trial because a trial could result in less money or no money for the Class.

7. WHAT ARE THE PLAINTIFFS ASKING FOR?

In the lawsuit, the Named Plaintiffs sought on behalf of themselves and the class unpaid wages, statutory penalties, liquidated damages, preliminary and permanent injunctive relief, restitution, declaratory relief, attorneys' fees and costs, interest, punitive damages, and such other relief as the court may award

WHO IS IN THE CLASS

8. AM I PART OF THIS CLASS?

The class includes all current and former building and construction trade employees, excluding management employees, who performed work for Brinderson Constructors, Inc. from December 21, 2000 to April 8, 2010.

9. ARE ANY EMPLOYEES WHO WORKED FOR BRINDERSON NOT INCLUDED IN THE CLASS?

Yes, management employees who received a salary are not included in the class.

10. I'M STILL NOT SURE IF I AM INCLUDED.

If you are still not sure whether you are included, call the Claims Administrator at 800-951-7324 or by calling or writing to the Class Counsel in this case.

THE SETTLEMENT AGREEMENT

11. WHO IS INCLUDED IN THE SETTLEMENT?

You are included in the Settlement if you meet all of the conditions set forth in the beginning of this notice.

12. WHO IS REPRESENTING THE SETTLING CLASS?

The attorneys for the Class ("Class Counsel" or "Plaintiffs' Counsel") are:

Randy Renick, Esq.
Hadsell Stormer Keeny Richardson & Renick, LLP
128 North Fair Oaks Avenue
Pasadena, California 91103-3645
Telephone: 626-585-9600
Facsimile: 626-577-7079

13. WHAT WILL I RECEIVE FROM THE SETTLEMENT?

Brinderson shall pay a total of up to five million two hundred and fifty dollars and no cents (\$5,250,000.00) (the "Gross Settlement Value" or "GSV"). The following amounts shall be deducted from the Gross Settlement Value: (i) Class Counsel's fees of \$1,715,000 and expenses of up to \$220,000, to the extent approved by the Court; (ii) the Claims Administrator's fees and expenses, estimated to be \$75,000, to the extent approved by the Court; and (iii) the enhanced payments of \$25,000 to Larry Small, Kenneth Charles, Glen Cadogan, Theonhilus Thomas and Michael Gittens, to the extent approved by the Court, (iv) \$1,000 to the State of California Labor Workforce and Development Agency, and (v) if any Class Members submit Exclusion forms in a timely manner, the amount such persons would have received if they had not opted out.. The Gross Settlement Value, less these items, will be referred to as the "Net Settlement Value" or "NSV").

The Claims Administrator shall distribute a settlement payment to each member of the Settling Class who submits an approved Claim Form in a timely manner. This amount will be distributed from the NSV and each Class Member's share of the NSV will be calculated based on the total amount of earnings each participating member of the Settling Class was compensated for while employed as a non-exempt (i.e., overtime-eligible) building and construction trade employee by Brinderson during 2002 through April 8, 2010. The settlement has been divided 40% to penalties, 40% to interest and 20% to wages. The Claims Administrator will withhold payroll taxes due on the portion allocated to wages.

Class Members will receive at least 58% of the Net Settlement Value, which 58% minimum is determined by the total of (1) the Previous Settlements made pursuant to signed releases, (2) the amount actually paid to persons who make timely claims, and (3) the Enhancement Payments. If there are an insufficient number of timely claimants to ensure that at least 58% of the Net Settlement Value is paid to Class Members from those three sums, then the shortfall will be

determined and that amount will be added pro rata to the amounts to be paid to the persons who filed timely Claim Forms so that the total amount paid to all Class Members from this litigation is at least 58% of the Net Settlement Value.

14. WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?

The Settlement Payments will be paid after final court approval of the Settlement and after all rights to appeal or review are exhausted or any appeal or review has been resolved in favor of the Settlement (the “Effective Date”).

15. WHAT IF I DO NOT WANT TO PARTICIPATE IN THE SETTLEMENT?

You will not be affected by the Settlement if you elect not to participate by timely submitting Request for Exclusion.

16. WHAT IF I RECEIVED A PAYMENT AS PART OF A PREVIOUS SETTLEMENT WITH BRINDERSON FOR MY OVERTIME CLAIMS?

Some Class Members received payments from the Previous Settlement paid by Brinderson of \$811,000 for the overtime claim that has been alleged in this litigation. If you received such a settlement, you may still file a claim to receive your share of the other claims in this Settlement, including claims for certain travel time, missed meal periods, and the failure to pay wages upon termination. If you previously received a payment, the amount you are entitled to receive as part of this Settlement will be reduced by the amount of the earlier payment. Your share of this settlement, however, will be at least 33% of the amount you would have received.

In other words, if you previously received a \$1,000 settlement payment from Brinderson, and you are entitled to receive \$2,500 from this Settlement, the \$2,500 from this Settlement will be reduced by \$1,000 you already received, for a total new payment of \$1,500. If you previously received a \$1,500 settlement payment from Brinderson, and you are entitled to receive \$1,000 from this Settlement, you would still receive a new payment of \$333 from this Settlement, for a total overall payment of \$1,833.

17. HOW DO I PARTICIPATE IN THE SETTLEMENT?

TO RECEIVE YOUR SHARE OF THE SETTLEMENT YOU MUST SUBMIT A VALID AND TIMELY CLAIM FORM. IF YOU DO NOTHING, YOU WILL STILL BE BOUND BY THE TERMS OF THE SETTLEMENT, INCLUDING THE RELEASE OF CLAIMS, EVEN THOUGH YOU WILL NOT RECEIVE A SETTLEMENT PAYMENT.

18. WHO IS ADMINISTERING THIS SETTLEMENT?

The Court has appointed CAC Services Group, LLC, (“CAC”) 1551 Southcross Drive West, Burnsville, Minnesota, 55306, 800-951-7324, as the Claims Administrator. CAC will mail forms, receive forms back, calculate payments, distribute checks, and answer questions about the Settlement.

19. RELEASE OF CLAIMS.

Each member of the Settling Class (other than those who file a timely Request for Exclusions) releases, discharges, and covenants not to sue Brinderson Constructors, Inc., and its affiliates, and all of its and their respective past and present employees, directors, officers, attorneys, representatives, insurers, agents, shareholders, predecessors, successors, and assigns (individually and collectively hereinafter all and always included within the term “Brinderson Releasees,”) from and with respect to any and all actions, causes of action, suits, liabilities, claims, and demands whatsoever, and each of them, whether known or unknown, from the beginning of time to the date of Preliminary Approval, which the Settling Class, or individual members thereof, has, had, or hereafter may claim to have, against the Brinderson Releasees, or any of them, which are based on, or in any way related to, violations of California Labor Code, including but not limited to §§ 201, 202, 203, 218.5, 218.6, 226, 226.7, 510, 511, 512, 558, 1194, 1197, 1198, 1199, 2699 et al., the Private Attorneys General Act, Industrial Welfare Commission Order No. 16 -2001, or any other applicable order of the Industrial Welfare Commission, or any other allegation contained in, related to, or subsumed by, the Lawsuit (the “Released Claims”). The Settling Parties intend the Settling Class’ release to be general and comprehensive in nature and to release all claims and potential claims against the Brinderson Releasees which were or could have been brought by the Lawsuit to the maximum extent permitted at law. The Released Claims include specifically, by way of further description, but not by way of limitation, any and all claims arising out of or in any way related to any:

(a) Any and all allegations set forth in the pleadings in Case No. 04CC00717, on file with the Superior Court of the State of California, Orange County;

(b) Any and all failures to provide meal periods, provide rest breaks, timely pay wages upon separation, pay the appropriate minimum wage, pay the appropriate overtime wage, and/or compensate employees for all hours worked;

(c) Any and all violations of California Labor Code and violations of California Business & Professions Code §§ 17200 et seq. related to the claims in this Lawsuit and/or referenced in this paragraph;

(d) Any and all fines, penalties, wages, interest, restitution, liquidated damages, punitive damages, declaratory relief, and/or injunctive relief allegedly due and owing by virtue of the allegations set out in the Lawsuit, whether based on statutory, regulatory, or common law (including any such claims based on the California Labor Code, the Private Attorneys General Act, Business and Professions Code, Civil Code, Order of the Industrial Welfare Commission, and/or Code of Civil Procedure); and/or

(e) Claims for attorneys' fees, attorneys' costs/expenses, and/or any and all claims based on calculations, distributions or payments made in accordance with this Agreement.

The members of the Settling Class acknowledge and/or are deemed to acknowledge that they may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the subject matter of this Agreement and/or this release, and which, if known or suspected at the time of executing this Agreement, may have materially affected this release. Nevertheless, the members of the Settling Class hereby waive any right, claim, or cause of action that might arise as a result of such different or additional claims or facts.

20. WHAT DOES THAT MEAN?

The language above means that if you do not submit a timely Request for Exclusion, you will release all claims you may have against Brinderson which pertain or relate to the types of claims that were brought in the Lawsuit, and you will accordingly forfeit the right to bring or participate in any such claim. If you submit a valid and timely Claim Form, then you will receive a Settlement Payment in exchange for this release.

21. ATTORNEYS' FEES.

Class Counsel will seek approval from the Court Class Counsel's fees of \$1,715,000 and expenses of up to \$220,000, which – if approved by the Court – will be deducted from the Gross Settlement Value pursuant to the Settlement prior to arriving at the Net Settlement Value. The attorneys fees will be allocated between current Class Counsel, Hadsell Stormer Keeny Richardson & Renick, LLP and Plaintiffs prior counsel, the Law Office of Elyn Moscovitz ("Moscovitz") based upon the lodestar (hours worked multiplied by hourly rate) of each respective firm. Moscovitz will not be compensated for work performed after her October 15, 2008 disqualification. Costs will be allocated between the two firms based upon the actual reimbursable costs incurred by each firm.

Plaintiffs' Class Counsel believe the amount for costs and attorneys' fees requested is fair and reasonable, and Brinderson has agreed not to oppose their request for that amount.

22. COSTS OF ADMINISTRATION.

The costs of administering the Settlement also will be deducted from the Gross Settlement Value pursuant to the Settlement prior to arriving at the Net Settlement Value. The cost of administration is estimated at \$75,000.

23. PLAINTIFF AND CLASS COUNSEL SUPPORT THE SETTLEMENT.

Plaintiffs Larry Small, Kenneth Charles, Glen Cadogan, Theonhilius Thomas and Michael Gittens as Class Representatives and Class Counsel support this Settlement. Their reasons include: the risk of a trial on the merits, the inherent delays and uncertainties associated with litigation, and recent case law which pertains to certain of the ambiguities in this litigation. Based on their experience litigating similar cases, Class Counsel believe that further proceedings in this case, including a trial and probable appeals, would be very expensive and protracted. No one can confidently predict how the various legal questions at issue, including the amount of damages if any, would ultimately be resolved. Therefore, upon careful consideration of all of the facts and circumstances of this case, Plaintiffs and Class Counsel believe that the Settlement is fair, reasonable, and adequate.

24. WHAT ARE YOUR RIGHTS AS A MEMBER OF THE SETTLING CLASS?

The Class Representatives and Class Counsel represent your interests as a member of the Settling Class. Unless

you elect to exclude yourself from the Settlement by timely filing a Request for Exclusion, you are a part of the Settling Class, and you will be bound by the terms of the Settlement as described above and as more fully discussed in the Settlement Agreement on file with the Court. As a member of the Settling Class, any final judgment that may be entered by the Court pursuant to the Settlement will effectuate a release of your claims against Brinderson and the other released parties as described above. As a member of the Settling Class, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys' fees and costs.

25. CLAIMING YOUR SHARE OF THE SETTLEMENT

To receive a share of the Settlement proceeds, you must complete and sign the enclosed Claim Form and mail it via first class mail to the Claims Administrator:

CAC Services Group, LLC
1551 Southcross Drive West
Burnsville, Minnesota 55306

To be valid, the Claim Form must be completed in full, signed by you under penalty of perjury. The Claim Form must be received no later than **July 5, 2010**, sixty (60) days after this Notice was mailed.

A member of the Settling Class who does not mail a Claim Form in the manner and by the deadlines specified above will not receive a share of the Settlement proceeds but will still be bound by the release.

26. COMMENTING IN FAVOR OF THE SETTLEMENT.

You may, but are not required to, comment in favor of the Settlement. If you wish to comment in favor of the Settlement, your comments must be in writing and mailed via first class mail, on or before July 5, 2010, sixty (60) days after this Notice was mailed, to all of the following:

Randy Renick, Esq.
**HADSELL STORMER KEENY
RICHARDSON & RENICK, LLP**
128 North Fair Oaks Avenue
Pasadena, California 91103-3645
Telephone: (626) 585-9600
Facsimile: (626) 577-7079
Attorneys for Plaintiffs

Office of the Clerk
751 West Santa Ana Boulevard
Santa Ana, California 92701

Christopher S. Andre [SB #180326]
**ATKINSON, ANDELSON, LOYA,
RUUD & ROMO**
A Professional Corporation
12800 Center Court Drive, Suite 300
Cerritos, California 90703-8597
Telephone: (562) 653-3200
Facsimile: (562) 653-3333

Your written comments must include your full name, address, date of birth, and dates of your employment at Brinderson and must reference this case, *Small et al, v. Brinderson Constructors, Inc.*, Case No. 04CC00717 (Orange County Sup. Court). **PLEASE DO NOT TELEPHONE THE COURT.**

27. OBJECTING TO THE SETTLEMENT.

If you are dissatisfied with the Settlement, you may object to the Settlement. Any objection to the Settlement must be in writing and must explain, in clear and concise terms, the basis for your objection. In addition, in order to be considered, your objection must be mailed via first class mail on or before June 4, 2010, thirty (30) days after the mailing of this Class Notice to the following:

Randy Renick, Esq. [S.B. #179652]
**HADSELL STORMER KEENY
RICHARDSON & RENICK, LLP**
128 North Fair Oaks Avenue
Pasadena, California 91103-3645
Telephone: (626) 585-9600
Facsimile: (626) 577-7079
Attorneys for Plaintiffs

Christopher S. Andre [SB # 180326]
**ATKINSON, ANDELSON, LOYA,
RUUD & ROMO**
A Professional Corporation
12800 Center Court Drive, Suite 300
Cerritos, California 90703-8597
Telephone: (562) 653-3200
Facsimile: (562) 653-3333

Your objection must include your full name, address, date of birth, and dates of your employment at Brinderson and must reference this case, *Small et al, v. Brinderson Constructors, Inc.*, Case No. 04CC00717 (Orange County Sup. Court).

In addition, you must appear at the Final Approval Hearing scheduled for July 22, 2010 at 1:30 p.m. The time and location of the Hearing may change without Notice to You. Any member of the Settling Class who does not object to the Settlement in the manner described above will be deemed to have waived any objections and will be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. If the Court rejects your objection, you will still be bound by the terms of the Settlement with respect to covered claims, unless you also submit a Request for Exclusion in the manner described in this Notice.

28. EXCLUDING YOURSELF FROM THE SETTLEMENT.

If you do not wish to participate in the Settlement, you must complete the enclosed Request for Exclusion. To be valid, the Request for Exclusion must be completed, signed by you under penalty of perjury, and returned via first class mail to:

CAC Services Group, LLC
1551 Southcross Drive West
Burnsville, MN 55306

The Request for Exclusion must be received not later than June 4, 2010, thirty (30) days after the mailing of this Class Notice.

Any person who files a complete and timely Request for Exclusion will, upon receipt, no longer be a member of the Settling Class, will be barred from participating in any portion of the Settlement, and will receive no benefits from the Settlement. Any such person, at his or her own expense, may pursue any claims he or she may have against Brinderson.

29. FINAL SETTLEMENT APPROVAL HEARING.

The Court will hold a final approval hearing in Superior Court of the State of California, for the County of Orange, Department CX102 of the above-entitled court, located at 751 West Santa Ana Boulevard, Santa Ana, California, on July 22, 2010 at 1:30 p.m. to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for costs and attorneys' fees, the special payment made to the Class Representatives, and the fees and costs of the Claims Administrator.

The hearing may be postponed without further notice to the Class. It is not necessary for you to appear at this hearing.

GETTING MORE INFORMATION

30. GETTING MORE INFORMATION.

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Joint Stipulation of Class Action Settlement and Release between Plaintiffs and Brinderson, which will be on file with the Court. The pleadings and other records in this litigation including the Settlement Agreement, may be examined at any time during regular business hours in the Superior Court of the State of California, County of Orange, for the Department CX102 of the above-entitled court, located at 751 West Santa Ana Boulevard, Santa Ana, California, or you may contact the Claims Administrator. **PLEASE DO NOT TELEPHONE THE COURT.**