

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

Date: 06/23/2008

Time: 03:13:20 PM

Dept: CX102

Judicial Officer Presiding: Judge Gail A. Andler

Clerk: Mary White

Bailiff/Court Attendant: None

Reporter: None

Case Init. Date: 12/21/2004

Case No: 04CC00717

Case Title: SMALL VS BRINDERSON

Case Category: Civil - Unlimited

Case Type: Business Tort

Event Type: Chambers Work

Appearances:

There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on June 5, 2008, now makes the following ruling:

The motion of Plaintiffs Larry Small, Kenneth Charles, Glen Cadogan, Theonhilus Thomas, and Michael Gittens for an order seeking class certification was heard on June 5th 2008 in the above-entitled court. The court, on the basis of the written record before it and the arguments of counsel, hereby orders that:

Notwithstanding the concerns of the Court expressed at the oral argument and in the tentative ruling regarding certain defects in the papers submitted by counsel for plaintiffs, the Court exercises its discretion to rule on the merits as follows:

1. This matter is certified as a class action.

2. A plaintiff class is established and defined as follows: "All building and construction trade employees, excluding management employees, who performed work for Brinderson Constructors, Inc. from December 21, 2000 to the present"

3. The following sub-classes are established:

a. All persons who are employed or have been employed by Defendants in the State of California as construction craft workers, including but not limited to asbestos workers, boilermakers, cement masons, pipe fitters, electricians, iron workers, painters, glaziers, roofers, plasterers, guniters, laborers, operating engineers, millwrights, plumbers, welders, sheet metal workers, carpenters [sic] instrument technicians, elevator constructors, [sic] who at any time since December 21st 2000 to the present worked over eight (8) hours per day and were not paid one and one half (1 ¼) times the regular

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rate of pay for all overtime hours worked in a 40 hour work week.

b. All persons who are employed or have been employed by Defendants in the State of California as construction craft workers, including but not limited to asbestos workers, boilermakers, cement masons, pipe fitters, electricians, iron workers, painters, glaziers, roofers, plasterers, gunite workers, laborers, operating engineers, millwrights, plumbers, welders, sheet metal workers, carpenters, instrument technicians, elevator constructors, [sic] who at any time since December 21st, 2000 to the present did not receive a second meal period as required by Labor Code Section 226.7 and Murphy v. Kenneth Cole (2007) 40 Ca.4th [sic] 1094.

c. All persons who are employed or have been employed by Defendants in the State of California as construction craft workers, including but not limited to asbestos workers, boilermakers, cement masons, pipe fitters, electricians, iron workers, painters, glaziers, roofers, plasterers, gunite workers, laborers, operating engineers, millwrights, plumbers, welders, sheet metal workers, carpenters, instrument technicians, elevator constructors, [sic] who at any time since December 21st, 2000 to the present were not paid for travel time per Morrison v. Royal Packing Co. (2000) 22 Cal.4th 575.

4. The following persons are designated as representatives of the plaintiff class: Larry Small, Kenneth Charles, Glen Cadogan, Theophilus Thomas, and Michael Gittens.

Counsel for plaintiffs to prepare the appropriate orders for signature by the Court, incorporating the language above as part of the orders.

Court orders Clerk to give notice.

It is so ordered.

Gall Andler

Hon. Gall Andler

Clerk's Certificate of Mailing (Ccp 1013a) - I Certify That I Am Not a Party to this Cause, That I Am over the Age of 18, and That a Copy of this Document Was Mailed First Class Postage Prepaid in a Sealed Envelope Addressed as Shown Above. Mailing and Execution of this Certificate Occurred on 23-JUN-08 Santa Ana California. Alan Slater, Executive Officer/clerk, by M.White Deputy Clerk.

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