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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CIVIL COMPLEX CENTER

Apr 20 2009

ALAN CARLSON, Clerk of the Court

**FILED**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

APR 23 2009

ALAN CARLSON, Clerk of the Court

*M. White*  
BY M WHITE

1 Randy Renick, Esq. [S.B. #179652]  
Cornelia Dai, Esq. [S.B. #207435]  
2 Natalje Nardecchia, Esq. [S.B. #246486]  
HADSELL STORMER KEENY  
3 RICHARDSON & RENICK, LLP  
128 North Fair Oaks Avenue  
4 Pasadena, California 91103-3645  
Telephone: (626) 585-9600  
5 Facsimile: (626) 577-7079

6 Attorneys for Plaintiffs

\$20.00

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR ORANGE COUNTY, COMPLEX CIVIL LITIGATION  
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13 LARRY SMALL, KENNETH CHARLES,  
14 GLEN CADOGAN, THEONHILIUS THOMAS  
and MICHAEL GITTENS on behalf of  
15 themselves and others similarly situated,

16 Plaintiffs,

17 vs.

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

20 Defendants.  
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Case No.: 04CC00717

[Assigned to the Honorable Gail A. Andler -  
Department CX102]

CLASS ACTION

STIPULATION AND [PROPOSED]  
ORDER RE: MAILING OF CLASS  
NOTICE

Complaint Filed: December 21, 2004  
Discovery Cut-Off: By Code  
Motion Cut-Off: By Code  
Trial Date: December 7, 2009

1 **TO THE HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2       Whereas on March 19, 2009, the Court granted Plaintiffs' Motion to Approve Class Notice for  
3 Mailing to Class with the requirement that Defendants' summary of the case, filed with the Court on  
4 March 11, 2009, be added to the text of the proposed class notice;

5       Whereas Defendants' summary of the case has been added to the Class Notice and a translated  
6 version of the summary added to the Spanish version of the Notice;

7       Whereas a request for exclusion response date of May 25, 2009, has been included in the Class  
8 Notice and accompanying Request for Exclusion Form (in both the English and Spanish versions) with  
9 an anticipated Class Notice mailing date of April 24, 2009;

10       Whereas Defendant has provided the third-party notice administrator with an updated and  
11 current list of purported class members so that the mailing can occur on April 24, 2009;

12       Whereas the Court's signature is required on both the English and Spanish versions of the Class  
13 Notice prior to the mailing of the Class Notice to the Class;

14       Whereas attached as Exhibit A is the English version of the Class Notice which requires the  
15 Court's signature on Page 4 of the Notice before it can be mailed to the Class on April 24, 2009,

16       Whereas attached as Exhibit B is the Spanish translation of the Class Notice which requires the  
17 Court's signature on Page 4 of the Notice before it can be mailed to the Class on April 24, 2009,

18       Whereas attached collectively as Exhibit C are the English and Spanish versions of the Request  
19 for Exclusion Form which will be mailed with the Class Notice on April 24, 2009;

20       **NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS**  
21 **FOLLOWS:**

- 22       1. Pursuant to the Court's ruling granting Plaintiffs' Motion to Approve Class Notice for  
23 Mailing to Class, the Class Notice will be mailed to the Class on April 24, 2009;
- 24       2. In order for the mailing of the Class Notice to take place, the Court will first sign the  
25 English and Spanish versions of the Class Notice attached hereto as Exhibits A and B,  
26 respectively;
- 27       3. Upon receipt of the Court's signed copies of both the English and Spanish versions of the  
28 Class Notice, the parties will provide the copies of the Class Notice along with the

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Request for Exclusion Form (in English and Spanish), collectively attached hereto as Exhibit C, to the third-party administrator for immediate preparation for mailing to the Class on April 24, 2009;

- 4. If the third-party administrator cannot prepare the Class Notice and Request for Exclusion Form for mailing by April 24, 2009, the Notice and Request for Exclusion Form will be mailed as soon as possible thereafter, and the request for exclusion response date in the Notice and Request for Exclusion Form will be modified such that the members of the Class have 30 days to request to be excluded.

Dated: April 20, 2009

HADSELL STORMER KEENY  
RICHARDSON & RENICK, LLP



Cornelia Dai  
Counsel for Plaintiffs

Dated: April \_\_, 2009

ATKINSON, ANDLESON, LOYA,  
RUUD & ROMO

\_\_\_\_\_  
Christopher S. Andre  
Counsel for Defendant

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Request for Exclusion Form (in English and Spanish), collectively attached hereto as Exhibit C, to the third-party administrator for immediate preparation for mailing to the Class on April 24, 2009;

- 4. If the third-party administrator cannot prepare the Class Notice and Request for Exclusion Form for mailing by April 24, 2009, the Notice and Request for Exclusion Form will be mailed as soon as possible thereafter, and the request for exclusion response date in the Notice and Request for Exclusion Form will be modified such that the members of the Class have 30 days to request to be excluded.


Dated: April 20, 2009

HADSELL STORMER KEENY  
RICHARDSON & RENICK, LLP

\_\_\_\_\_  
Cornelia Dai  
Counsel for Plaintiffs

Dated: April 20, 2009

ATKINSON, ANDLESON, LOYA,  
RUUD & ROMO

\_\_\_\_\_  
  
Christopher S. Andre  
Counsel for Defendant

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**ORDER**

After full consideration of the Stipulation Regarding Mailing of Class Notice, and good cause appearing therefrom:

IT IS HEREBY ORDERED THAT:

1. Pursuant to the Court's ruling granting Plaintiffs' Motion to Approve Class Notice for Mailing to Class, the Class Notice will be mailed to the Class on April 24, 2009;
2. In order for the mailing of the Class Notice to take place, the Court will first sign the English and Spanish versions of the Class Notice attached to the Stipulation as Exhibits A and B, respectively;
3. Upon receipt of the Court's signed copies of both the English and Spanish versions of the Class Notice, the parties will provide the copies of the Class Notice along with the Request for Exclusion Form (in English and Spanish), collectively attached to the Stipulation as Exhibit C, to the third-party administrator for immediate preparation for mailing to the Class on April 24, 2009;
4. If the third-party administrator cannot prepare the Class Notice and Request for Exclusion Form for mailing by April 24, 2009, the Notice and Request for Exclusion Form will be mailed as soon as possible thereafter, and the request for exclusion response date in the Notice and Request for Exclusion Form will be modified such that the members of the Class have 30 days to request to be excluded.

Date: APR 23 2009

  
The Honorable Gail A. Andler  
Judge of the Orange County Superior Court

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**INDEX OF EXHIBITS**

Exhibit	Description
A	Notice of Pendency of Class Action (English version)
B	Notice of Pendency of Class Action (Spanish version)
C	Class Action Request for Exclusion Form

**Exhibit A**

1 Randy Renick, Esq. [S.B. #179652]  
Cornelia Dai, Esq. [S.B. #207435]  
2 Natalie Nardecchia, Esq. [S.B. #246486]  
HADSELL STORMER KEENY  
3 RICHARDSON & RENICK, LLP  
128 North Fair Oaks Avenue  
4 Pasadena, California 91103-3645  
Telephone: (626) 585-9600  
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6 Attorneys for Plaintiffs  
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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR ORANGE COUNTY, COMPLEX CIVIL LITIGATION  
12

13 LARRY SMALL, KENNETH CHARLES, )  
14 GLEN CADOGAN, THEONHILIUS THOMAS )  
and MICHAEL GITTENS on behalf of )  
15 themselves and others similarly situated, )

16 Plaintiffs, )

17 vs. )

18 BRINDERSON, BRINDERSON )  
19 CONSTRUCTORS INC., DOES 1-50, )  
inclusive, )

20 Defendants. )  
21

Case No.: 04CC00717

[Assigned to the Honorable Gail A. Andler --  
Department CX102]

**NOTICE OF PENDENCY OF CLASS  
ACTION**

Complaint Filed: December 21, 2004

22 TO: All Construction Craft employees who performed work for Brinderson Constructors, Inc. from  
23 December 21, 2000 to the present.

24 **A CLASS ACTION LAWSUIT HAS BEEN FILED AND CERTIFIED ON BEHALF OF A**  
**PLAINTIFF CLASS OF WHICH YOU MAY BE A MEMBER. THIS NOTICE PROVIDES**  
25 **IMPORTANT INFORMATION ABOUT YOUR RIGHTS IN CONNECTION WITH THAT**  
**LAWSUIT. PLEASE READ IT CAREFULLY.**

26 Currently pending in the California Superior Court for the County of Orange is a certified class action  
27 lawsuit against Brinderson Constructors, Inc. A class action lawsuit is a lawsuit in which one or more  
persons sue on behalf of themselves and others who have similar claims. This is not a notice of a  
28 lawsuit against you. This Notice is being published for the purpose of informing you of the pendency of  
the litigation and your rights with respect to it.



1 The Plaintiffs allege Brinderson failed to comply with all of the requirements of Wage Order 16  
2 regarding secret ballot elections to adopt four-ten hour alternative work week schedules and are  
3 therefore entitled to overtime pay of one and one-half times an employee's regular rate of pay for the  
4 ninth and tenth hour worked during an alternative work schedule, failed to provide second meal periods  
5 when working over 10 hours in a day and failed to pay an extra hour's wage for the missed meal period,  
6 and failed to pay for time waiting and traveling within refineries to work locations in the refineries.  
7 Brinderson denies the allegations Plaintiffs are asserting in the lawsuit.

8 Plaintiffs allege that these actions constitute unfair business practices under California Business and  
9 Professions Code section 17200 as well as violations of California Labor Code sections 201, 203, 223,  
10 226, 226.7, 512, and 221 and of the Industrial Wage Commission's Order 16-2001. Plaintiffs seek  
11 statutory penalties and equitable relief including restitution and an injunction debarring defendants from  
12 further violations of these laws, attorney's fees, costs of suit, and any other remedy this Court deems just  
13 and proper. Defendants deny they engaged in any illegal, deceptive, or unfair practice or activity, that  
14 any amounts are owed or that it injured or damaged any of the class members in any way.

15 Brinderson believes prior class counsel, Attorney Ellyn Moscovitz, filed the lawsuit on December 21,  
16 2004, as part of a scheme to use the lawsuit to try to pressure Brinderson into signing collective  
17 bargaining agreements with Ms. Moscovitz' trade union clients, such as Pipefitters Local 250.  
18 Brinderson believes the claims the plaintiffs assert are unfounded and/or exaggerated. For example:

- 19 • Brinderson believes most craft employees prefer to work a four ten-hour day schedule as  
20 an alternative to a traditional five eight-hour day schedule, and that Brinderson was not  
21 required by Wage Order 16 to pay premium pay or overtime for the ninth and tenth hour  
22 worked during a four ten-hour day alternative workweek schedule. Working four ten-  
23 hour days usually resulted in an extra day off work for employees. Furthermore, if an  
24 employee worked a fifth day, double time started sooner, at the ninth hour on the fifth  
25 day.
- 26 • Brinderson believes craft employees were allowed to take a second unpaid 30-minute  
27 meal period if they wanted to when they worked more than 10 hours in a workday.  
28 Brinderson should not be penalized merely because it allegedly did not force employees  
to take a second unpaid 30-minute meal period. Brinderson believes most craft  
employees prefer not to take a second unpaid 30-minute meal period when they work  
more than 10 hours in a workday. In other words, Brinderson believes most employees  
working, for example, eleven hours would rather go home at the end of eleven hours of  
work instead of staying on the jobsite longer to take a second unpaid 30-minute meal  
period before going home for the day.
- Brinderson believes it properly paid craft employees for time spent traveling by bus or  
other vehicles between the gates of a facility, such as a refinery, and the location within a  
facility where the work was performed and that Brinderson is therefore not liable for  
allegedly unpaid travel time.

Brinderson is proud of its hard-working and safety conscious craft employees, and Brinderson is  
fighting this lawsuit because it believes it treated its craft employees fairly in all of these matters.

The Court has certified the following class and subclasses. The class members consist of all  
constructors who performed work for Brinderson Constructors, Inc. from December 21, 2000 to the  
present. The class and subclasses consist of the following:

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

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2. 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 mason, pipe fitters, electrician, iron workers, painters, glazier, roofers, plasterers, gunite workers, laborers, operating engineers, millwrights, plumbers, welders, sheet metal workers, carpenters [sic] instrument technician, and elevator constructors, who at any time since December 21, 2000 to be present worked over eight (8) hours per day and were not paid one and one half (1 ½) times the regular rate of pay for all overtime hours worked on 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 mason, pipe fitters, electrician, iron workers, painter, glazier, roofers, plasterers, gunite workers, laborers, operating engineers, millwright, plumbers, welders, sheet metal workers, carpenter, instrument technician, and elevator constructors, who at any time since December 21, 2000 to the present did not receive a second meal period as required by Labor Code Section 226.7 and Murphy vs. Kenneth Cole (2007) 40 Cal.4th 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 mason, pipe fitters, electrician, iron workers, painters, glazier, roofers, plasterers, gunite workers, laborers, operating engineers, millwrights, plumber, welders, sheet metal workers, carpenter, instrument technician, and elevator constructors, who at any time since December 21, 2000 to the present were not paid for travel time per Morillion vs. Royal Packing Co. (2000) 22 Cal.4th 575.

The Court has not passed any of the merits of the parties' contentions. This notice is not to be understood as an expression of any opinion of the Court.

The Law Offices of Ellyn Moscowitz, 20 North Raymond Avenue, Suite 240, Pasadena, California 91103 was former counsel prosecuting this action on behalf of the named Plaintiffs and the class. Current counsel representing the class ("Class Counsel") is Hadsell Stormer Keeny Richardson & Renick, 128 North Fair Oaks Avenue, Pasadena, California, 91103. Class Counsel represents the Class members on a contingent basis, without any charge to class members. This means that Class Counsel is not charging the named Plaintiffs or members of the class a fee. If the Plaintiffs and the class prevail on their claims, and if attorney's fees are awarded, an award of attorney's fees or costs will be made for any recovery for the class members from Brinderson directly.

Former class counsel, The Law Offices of Ellyn Moscowitz, received some funding of costs for this lawsuit from the Los Angeles/Orange Counties Building and Trades Council, AFL-CIO to assist in this litigation.

If you are a member of the class as defined above and do not request exclusion from the class, you will remain a member of the class. If you remain in the class, any claims that you may have against the defendants arising from the matters alleged in the Class Action will be determined in the Class Action, in which you will be represented by Class Counsel. You will not be able to present such claims in another lawsuit whether the outcome in this action is favorable to you or not. The Plaintiffs and Class Counsel will act as your representatives and counsel for the presentation of the case against the defendants. If you desire, you may also appear through your own attorney at your own expense. **IF YOU WANT TO REMAIN A MEMBER OF THE CLASS, YOU SHOULD NOT SEND IN THE REQUEST FOR EXCLUSION. YOU ARE NOT REQUIRED TO DO ANYTHING AT THIS**

1 TIME.

2 If you wish to exclude yourself from the Class, you must send a written "Request for Exclusion"  
3 postmarked on or before May 25, 2009 to the following address:

4 Small vs. Brinderson:  
5 THIRD-PARTY NOTICE ADMINISTRATOR  
6 c/o CAC Services Group, LLC  
7 1551 Southcross Drive West  
8 Burnsville, MN 55306  
9 Toll Free Tel.: (800) 951-7324  
10 Fax: (952) 224-2193

11 The Request for Exclusion must include your name and address, and must specifically state that you  
12 wish to request to be excluded from the Plaintiff class in the case entitled "Small vs. Brinderson  
13 Constructors Inc., Case No. 04CC00717, California Superior Court, County of Orange." A Request for  
14 Exclusion Form is provided for your convenience.

15 If you request to be excluded from the class, you will not share in any recovery (if any) that may be  
16 made in the Class Action; you will not be bound by any judgment in the Class Action; and you are free  
17 to pursue any claims you may have against the defendants by filing your own lawsuit.

18 If you have any questions about this notice, or this lawsuit, you may contact Class Counsel:

19 Randy Renick, Esq.  
20 Hadsell Stormer Keeny Richardson & Renick  
21 128 North Fair Oaks Avenue  
22 Pasadena, California 91103  
23 Toll Free Tel: (888) 654-6156  
24 Fax: (626) 577-7079

25 You may wish to seek the advice and guidance of your own attorney, at your expense, about your legal  
26 rights. For further information concerning this Notice, you may also contact Hadsell Stormer Keeny  
27 Richardson & Renick at the address shown above.

28 **PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK OF THE COURT.**

DATE: \_\_\_\_\_ BY THE ORDER OF THE HONORABLE  
GAIL A. ANDLER

\_\_\_\_\_  
Judge of the Superior Court

**Exhibit B**

1 Randy Renick, Esq. [S.B. #179652]  
Cornelia Dai, Esq. [S.B. #207435]  
2 Natalie Nardecchia, Esq. [S.B. #246486]  
HADSELL STORMER KEENY  
3 RICHARDSON & RENICK, LLP  
128 North Fair Oaks Avenue  
4 Pasadena, California 91103-3645  
Teléfono: (626) 585-9600  
5 Fax: (626) 577-7079

6 Abogados de los demandantes

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10 **TRIBUNAL SUPERIOR DEL ESTADO DE CALIFORNIA**  
11 **PARA EL CONDADO DE ORANGE, LITIGACIÓN CIVIL COMPLEJA**

12  
13 LARRY SMALL, KENNETH CHARLES,  
GLEN CADOGAN, THEONHILIUS THOMAS  
14 y MICHAEL GITTENS en nombre propio y en  
el de todas las demás personas en situación  
15 similar,

16 Demandantes,

17 contra

18 BRINDERSON, BRINDERSON  
CONSTRUCTORS INC., Y OTROS 1-50,  
19 inclusive,

20 Demandados.  
21

Núm. de causa: 04CC00717

[Asignada a la Honorable Gail A. Andler -  
Departamento CX102]

**NOTIFICACION DE LITISPENDENCIA  
DE UNA DEMANDA DE ACCION DE  
CLASE**

Fecha de presentación de la demanda:  
21 de diciembre de 2004

22 A: Todos los empleados artesanales de la construcción que realizaron trabajo para Brinderson Constructors,  
23 Inc. desde el 21 de diciembre de 2000 hasta el presente.

24 **SE HA PRESENTADO Y CERTIFICADO UNA DEMANDA DE ACCIÓN DE CLASE EN NOMBRE**  
**DE UNA CLASE DE DEMANDANTES DE LA QUE USTED PODRÍA SER MIEMBRO. EN ESTA**  
25 **NOTIFICACIÓN SE PROPORCIONA INFORMACIÓN IMPORTANTE ACERCA DE SUS**  
**DERECHOS CON RESPECTO A DICHA DEMANDA. SÍRVASE LEERLA DETENIDAMENTE.**

26 Está pendiente actualmente en el Tribunal Superior de California para el Condado de Orange una demanda  
27 de acción de clase certificada contra Brinderson Constructors, Inc. Una demanda de acción de clase es  
aquella entablada por una o más personas en nombre propio y en el de otras personas que tienen  
28 reclamaciones similares. Esto no es una notificación de una demanda en contra de usted. Esta notificación se  
emite con el fin de informarle de la litigación y de sus derechos con respecto a ella.

1  
**NOTIFICACIÓN DE LITISPENDENCIA DE UNA DEMANDA  
DE ACCIÓN DE CLASE**

1 Los Demandantes alegan que Brinderson no cumplió con los requisitos de la Orden Salarial 16 referente a  
2 elecciones mediante voto secreto para adoptar cuatro horarios semanales de trabajo alternativos de diez  
3 horas, teniendo por lo tanto derecho a recibir pago por horas extraordinarias (*overtime*) a razón de una vez y  
4 media su sueldo regular de empleado por la novena y décima hora trabajada durante un horario de trabajo  
5 alternativo, no proporcionó segundos períodos para comer cuando se trabajaba más de 10 horas al día y no  
6 pagó una hora extra por el período para comer no concedido y no pagó por el tiempo de espera y  
7 desplazamiento dentro de las refinerías para trabajar en lugares de las refinerías. Brinderson niega los  
8 alegatos que los Demandantes indican en la demanda.

9 Los Demandantes alegan que estas acciones constituyen prácticas empresariales injustas de conformidad con  
10 el artículo 17200 del Código Mercantil de California, así como violaciones de los artículos 201, 203, 223,  
11 226, 226.7, 512 y 221 del Código de Trabajo de California y la orden 16-2001 de la Comisión de Salarios  
12 Industriales. Los Demandantes desean obtener sanciones reglamentarias y desagravios por mandato judicial,  
13 incluida indemnización y una orden judicial impidiendo a los demandados que cometan más violaciones de  
14 estas leyes, honorarios de abogado, costos de la demanda y cualquier otra reparación que este Tribunal  
15 considere justa y apropiada. Los Demandados niegan haber llevado a cabo ningún tipo de práctica o  
16 actividad ilegal, engañosa o injusta, y afirman que no se adeuda cantidad alguna y que no perjudicaron ni  
17 dañaron a ninguno de los miembros de clase de manera alguna.

18 Brinderson considera que la anterior abogada de la acción de clase, Elyn Moscowitz, presentó la demanda el  
19 21 de diciembre de 2004 como parte de una trama para utilizar la demanda con la intención de tratar de  
20 presionar a Brinderson para que firmara acuerdos de negociación colectiva con los clientes sindicales de la  
21 Sra. Moscowitz, tales como Pipefitters Local 250. Brinderson considera que los alegatos indicados por los  
22 demandantes son infundados y/o exagerados. Por ejemplo:

- 23 • Brinderson considera que la mayoría de los empleados artesanales prefieren trabajar diez horas  
24 diarias, cuatro días por semana, como alternativa al horario tradicional de ocho horas diarias, cinco  
25 días por semana, y que Brinderson no estaba obligada por la Orden Salarial 16 a pagar una prima  
26 ni horas extraordinarias por la novena y la décima hora trabajadas durante un horario semanal  
27 laboral alternativo de diez horas diarias, cuatro días por semana. Trabajar diez horas diarias cuatro  
28 días por semana normalmente ocasionaba que los empleados tuvieran un día libre adicional. Más  
aún, si un empleado trabajaba un quinto día, el tiempo doble empezaba antes, en la novena hora  
del quinto día.
- Brinderson considera que se permitía que los empleados artesanales se tomaran un segundo  
período de 30 minutos sin goce de sueldo para comer si así lo deseaban cuando trabajaban más de  
10 horas en un día laboral. Brinderson no debe ser penalizado solamente porque supuestamente no  
obligaba a los empleados a tomarse un segundo período de 30 minutos sin goce de sueldo para  
comer. Brinderson considera que la mayoría de los empleados artesanales preferían no tomarse un  
segundo período de 30 minutos sin goce de sueldo para comer cuando trabajaban más de 10 horas  
en un día laboral. En otras palabras, Brinderson considera que la mayoría de los empleados que  
trabajaban, por ejemplo, once horas, preferían irse a su casa al terminar las once horas de trabajo  
en lugar de quedarse en el trabajo más tiempo con el fin de tomarse un segundo período de 30  
minutos sin goce de sueldo para comer antes de irse a su casa al término de la jornada.
- Brinderson considera que pagó apropiadamente a los empleados artesanales por el tiempo que  
pasaron desplazándose en autobús u otros vehículos entre las puertas de unas instalaciones, tales  
como una refinería, y el lugar dentro de las instalaciones donde se realizaba el trabajo, y que  
Brinderson, por lo tanto, no es responsable del tiempo de desplazamiento que supuestamente no  
pagó.

Brinderson se enorgullece de sus empleados artesanales, los cuales son buenos trabajadores y muy  
conscientes de las normas de seguridad, y Brinderson se opone a esta demanda porque considera que trató a  
sus empleados artesanales de una manera justa en todos estos asuntos.

1 El Tribunal ha certificado las siguientes clases y subclases. Los miembros de clase se componen de todos los  
2 constructores que realizaron trabajo para Brinderson Constructors, Inc. del 21 de diciembre de 2000 al  
presente. La clase y las subclases constan de los siguientes miembros:

- 3 1. La clase de demandante se establece y define de la siguiente manera: "Todos los empleados  
4 artesanales de construcción y edificación, excluidos los empleados de gerencia, que realizaron  
trabajo para Brinderson Constructors, Inc. del 21 de diciembre de 2000 al presente".
- 5 2. Se establecen las siguientes subclases:
  - 6 a. Todas las personas que están empleadas o han estado empleadas por los Demandados en el  
7 Estado de California como trabajadores artesanales de construcción, incluidos, aunque sin  
limitarse a ellos, trabajadores de asbestos, caldereros, albañiles, montadores de tuberías,  
8 electricistas, herreros, pintores, vidrieros, techadores, enyesadores, gunitistas, peones,  
ingenieros operativos, reparadores de máquinas, plomeros, soldadores, chapistas, técnicos  
9 de instrumentos de carpintero [sic] y constructores de elevadores, que en cualquier  
momento desde el 21 de diciembre de 2000 al presente trabajaron más de ocho (8) horas al  
10 día y no recibieron pago a razón de una vez y media su sueldo regular por todas las horas  
extraordinarias trabajadas en una semana laboral de 40 horas.
  - 11 b. Todas las personas que están empleadas o han estado empleadas por los Demandados en el  
12 Estado de California como trabajadores artesanales de construcción, incluidos, aunque sin  
limitarse a ellos, trabajadores de asbestos, caldereros, albañiles, montadores de tuberías,  
13 electricistas, herreros, pintores, vidrieros, techadores, enyesadores, gunitistas, peones,  
ingenieros operativos, reparadores de máquinas, plomeros, soldadores, chapistas, técnicos  
14 de instrumentos de carpintero [sic] y constructores de elevadores, que en cualquier  
momento desde el 21 de diciembre de 2000 al presente no recibieron un segundo período  
15 para comer tal como lo requiere el artículo 226.7 del Código de Trabajo y Murphy vs.  
Kenneth Cole (2007) 40 Cal.4th 1094.
  - 16 c. Todas las personas que están empleadas o han estado empleadas por los Demandados en el  
17 Estado de California como trabajadores artesanales de construcción, incluidos, aunque sin  
limitarse a ellos, trabajadores de asbestos, caldereros, albañiles, montadores de tuberías,  
18 electricistas, herreros, pintores, vidrieros, techadores, enyesadores, gunitistas, peones,  
ingenieros operativos, reparadores de máquinas, plomeros, soldadores, chapistas, técnicos  
19 de instrumentos de carpintero [sic] y constructores de elevadores, que en cualquier  
momento desde el 21 de diciembre de 2000 al presente no recibieron pago por el tiempo de  
20 desplazamiento de acuerdo con Morrillion vs. Royal Packing Co. (2000) 22 Cal.4th 575.

21 El Tribunal no se ha pronunciado con respecto a la validez de los argumentos de las partes. Esta notificación  
no debe entenderse como una expresión de la opinión del Tribunal.

22 El bufete de abogados Law Offices of Elynn Moscowitz, 20 North Raymond Avenue, Suite 240, Pasadena,  
23 California 91103 fue la firma de abogados que se encargó anteriormente de representar en la demanda a los  
Demandantes indicados y a la clase. Los abogados que actualmente representan a la clase ("Abogado de  
24 clase") son Hadsell Stormer Keeny Richardson & Renick, 128 North Fair Oaks Avenue, Pasadena,  
California, 91103. El abogado de clase representa a los miembros de la clase según un pacto de cuota litis, es  
25 decir, sin cobrar nada a los miembros de clase. Esto significa que el abogado de clase no cobra honorario  
alguno a los Demandantes indicados ni a los miembros de clase. Si los Demandantes y la clase ganan la  
26 demanda, y si el Tribunal concede honorarios de abogado, se dictará un laudo de honorarios o costos de  
abogado para que los miembros de clase recuperen la suma de Brinderson directamente.

27 El abogado de clase anterior, Law Offices of Elynn Moscowitz, recibió ciertos fondos para los costos de esta  
28 demanda de parte del Consejo de Comercio y Edificación de los Condados de Los Angeles/Orange,  
AFL-CIO para asistir en este litigio.

1 Si usted es miembro de la clase, según la definición precedente, y no solicita excluirse de la clase,  
2 permanecerá como miembro de la clase. Si permanece en la clase, las reclamaciones que pueda tener contra  
3 los demandados en relación con los asuntos que se alegan en la acción de clase se determinarán en la acción  
4 de clase, en la cual usted estará representado por el abogado de clase. Usted no podrá presentar dichas  
5 reclamaciones en otra demanda, al margen de que el resultado de esta acción sea favorable a usted o no. Los  
6 Demandantes y el abogado de clase actuarán como sus representantes y como abogado para la presentación  
7 de los alegatos contra los acusados. Si usted lo desea, también podrá comparecer por medio de su propio  
8 abogado, con gastos por su cuenta. **SI DESEA PERMANECER COMO MIEMBRO DE LA CLASE, NO  
9 DEBE ENVIAR LA SOLICITUD DE EXCLUSIÓN. NO TIENE QUE HACER NADA EN ESTE  
10 MOMENTO.**

11 Si desea excluirse de la clase, deberá enviar una "Solicitud de exclusión" con matasellos del día 25 de mayo  
12 de 2009, o anterior, a la siguiente dirección:

13 Small vs. Brinderson:  
14 **THIRD-PARTY NOTICE ADMINISTRATOR**  
15 c/o CAC Services Group, LLC  
16 1551 Southcross Drive West  
17 Burnsville, MN 55306  
18 Teléfono gratuito: (800) 951-7324  
19 Fax: (952) 224-2193

20 En la solicitud de exclusión se debe hacer constar su nombre y dirección, y deberá indicarse específicamente  
21 que desea solicitar ser excluido de la clase de demandante en el caso denominado "Small vs. Brinderson  
22 Constructors Inc., Núm. de causa 04CC00717, Tribunal Superior de California, Condado de Orange". Para  
23 su comodidad, se adjunta un formulario de solicitud de exclusión.

24 Si solicita que se le excluya de la clase, no compartirá el pago recuperado (si lo hubiere) que pueda  
25 adjudicarse en la acción de clase; no quedará vinculado a la sentencia pronunciada en la acción de clase; y  
26 usted tiene libertad para tratar de hacer valer las reclamaciones que pueda tener contra los demandados  
27 presentando su propia demanda.

28 Si tiene alguna pregunta acerca de esta notificación o de esta demanda, diríjase al abogado de la clase:

29 Randy Renick, Esq.  
30 Hadsell Stormer Keeny Richardson & Renick  
31 128 North Fair Oaks Avenue  
32 Pasadena, California 91103  
33 Teléfono gratuito: (888) 654-6156  
34 Fax: (626) 577-7079

35 Si lo desea, podrá solicitar el consejo y asesoramiento de su propio abogado, con gastos por cuenta de usted,  
36 acerca de sus derechos legales. Si desea más información referente a la presente Notificación, también podrá  
37 dirigirse a Hadsell Stormer Keeny Richardson & Renick a la dirección anteriormente indicada.

38 **POR FAVOR, ABSTÉNGASE DE ESCRIBIR O LLAMAR AL TRIBUNAL O AL SECRETARIO  
DEL TRIBUNAL.**

39 FECHA: \_\_\_\_\_ POR ORDEN DE LA HONORABLE  
40 GAIL A. ANDLER

41 \_\_\_\_\_  
42 Juez del Tribunal Superior



**Exhibit C**

**CLASS ACTION REQUEST FOR EXCLUSION FORM**

**TO EXCLUDE YOURSELF FROM THE CLASS, YOU MUST: (1) COMPLETE ALL SECTIONS; (2) SIGN THIS "REQUEST FOR EXCLUSION FORM;" AND (3) SUBMIT THIS REQUEST FOR EXCLUSION FORM BEFORE MAY 25, 2009.**

**FAILURE TO SUBMIT A COMPLETED AND TIMELY REQUEST FOR EXCLUSION WILL RESULT IN YOUR INCLUSION IN THE CLASS.**

Small vs. Brinderson:  
THIRD-PARTY NOTICE ADMINISTRATOR  
c/o CAC Services Group, LLC  
1551 Southcross Drive West  
Burnsville, MN 55306  
Toll Free Tel.: (800) 951-7324  
Fax: (952) 224-2193

**SECTION A: CLAIMANT INFORMATION [PLEASE PRINT CLEARLY]**

"I DO NOT WANT TO BE PART OF THE CLASS ACTION LAWSUIT."

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

City, Zip Code: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

If your name or address is different from those shown above, print the corrections on the lines above.

\_\_\_\_\_  
Any Other Names Used While Employed by Brinderson Constructors, Inc.

( ) \_\_\_\_\_  
(Area Code) Daytime Telephone Number

( ) \_\_\_\_\_  
(Area Code) Evening Telephone Number

Mail to above address.

**FORMULARIO PARA LA SOLICITUD DE EXCLUSIÓN**  
**DE LA ACCIÓN DE CLASE**

**PARA EXCLUIRSE DE LA CLASE, USTED DEBE: (1) LLENAR TODAS LAS SECCIONES; (2) FIRMAR ESTE "FORMULARIO DE SOLICITUD DE EXCLUSIÓN"; Y (3) ENVIAR EL FORMULARIO DE SOLICITUD DE EXCLUSIÓN ANTES DEL 25 DE MAYO DE 2009.**

**SI NO LLENA Y ENVÍA LA SOLICITUD DE EXCLUSIÓN EN EL PLAZO ESTABLECIDO, QUEDARÁ INCLUIDO EN LA CLASE.**

Small vs. Brinderson:  
THIRD-PARTY NOTICE ADMINISTRATOR  
c/o CAC Services Group, LLC  
1551 Southcross Drive West  
Burnsville, MN 55306  
Teléfono gratuito: (800) 951-7324  
Fax: (952) 224-2193

**SECCIÓN A: DATOS DEL RECLAMANTE [EN LETRA DE MOLDE CLARA]**

"NO DESEO PARTICIPAR EN ESTA DEMANDA DE ACCIÓN DE CLASE."

Nombre: \_\_\_\_\_ Teléfono: \_\_\_\_\_

Dirección: \_\_\_\_\_

Ciudad, Código postal: \_\_\_\_\_

Número de Seguro Social: \_\_\_\_\_

Si su nombre o dirección es diferente a los que se indican anteriormente, haga constar las correcciones en letra de molde en las líneas superiores.

\_\_\_\_\_  
Algún otro nombre usado durante su empleo en Brinderson Constructors, Inc.

( ) \_\_\_\_\_ ( ) \_\_\_\_\_  
(C. de área) Teléfono (día) (C. de área) Teléfono (tarde/noche)

Enviar por correo a la dirección arriba indicada.

1 **PROOF OF SERVICE**

2 I am employed in the county of Los Angeles, State of California. I am over the age of  
3 18 and not a party to the within action; my business address is 128 N. Fair Oaks Avenue, Pasadena,  
4 California 91103.

5 On April 20, 2009, I served the foregoing documents described as: **STIPULATION**  
6 **AND [PROPOSED] ORDER RE: MAILING OF CLASS NOTICE** on the interested parties in this  
7 cause by placing true and correct copies thereof in envelopes addressed as follows:

8 Christopher S. Andre, Esq.  
9 Atkinson, Andelson, Loya, Ruud & Romo  
10 17871 Park Plaza Drive, Suite 200  
11 Cerritos, CA 90703-8597  
12 (562) 653-3333

Attorneys for Defendants

13 **XX BY FACSIMILE MACHINE**

14 **XX** I caused the foregoing document(s) to be transmitted to the above-named person(s) at the  
15 telephone number(s) specified

16 **XX BY MAIL**

17 I deposited such envelope in the mail at Pasadena, California. The envelope was  
18 mailed with postage thereon fully prepaid.

19 **XX** I am readily familiar with the firm's practice of collection and processing  
20 correspondence for mailing. Under that practice it would be deposited with U.S. postal service on the  
21 same day with postage thereon fully prepaid at Pasadena, California in the ordinary course of  
22 business. I am aware that on motion of the party served, service is presumed invalid if postal  
23 cancellation date or postage meter date is more than one day after date of deposit for mailing this  
24 affidavit.

25 Executed on April 20, 2009, at Pasadena, California.

26 **XX** (State) I declare under penalty of perjury under the laws of the State of California that the  
27 above is true and correct.

28  
*Vivian Luther*  
Vivian Luther  
Declarant