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Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

KELLY SMITH, GARY VANOVER, EDWARD BOWMAN)
III, JEFFERY SMITH, TERRY GOBER, and JUSTIN)
JOHNSON, on their own behalf and on behalf of all those)
similarly situated,)

Plaintiffs,)

vs.)

HELIX ELECTRIC, INC, and DOES 1 through 20, inclusive,)

Defendants.)

Case No. 05 ASO 3603

NOTICE OF PENDENCY OF CLASS ACTION

A CLASS ACTION LAWSUIT HAS BEEN FILED AGAINST DEFENDANT HELIX ELECTRIC, INC. YOU MAY BE A CLASS MEMBER. THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR RIGHTS IN CONNECTION WITH THAT LAWSUIT. PLEASE READ IT CAREFULLY. YOU ARE NOT BEING SUED.

A lawsuit has been filed in the California Superior Court for the County of Sacramento, against Helix Electric, Inc. (“Helix”). The Court has determined that this case may proceed as a class action. 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 Notice is being provided for the purpose of informing you of the lawsuit and of your rights regarding it.

In this lawsuit, the Plaintiffs are six electricians who have worked for Helix as inside wiremen. They allege that Helix has underpaid them and other electricians on a group of public works projects. Plaintiffs allege that Helix was required to pay “shift differential,” also sometimes called “shift pay,” “shift rate,” or “shift premium,” for electrical work that was done at night on the Telecommunications Upgrade projects at six California State University (CSU or Cal State) campuses. These were the Cal CSU campuses at Sacramento, Chico, Fresno, San Jose, San Diego, and Fullerton.

Certain wage requirements for public works -- called “prevailing wage determinations” -- include a requirement for shift differential for inside wiremen, when they perform work during the “third shift.” Plaintiffs allege that the “third shift” is the graveyard shift, which generally includes work performed between 12:30 a.m. and 8:00 a.m. or 9:00 a.m. In the counties covering Cal State San Jose, San Diego, and Fullerton, at the time Helix was performing the Telecommunications Upgrade projects, the shift differential was a 31.4% premium over the day shift rate. In the counties covering Cal State Sacramento, Chico, and Fresno at the time of Helix’s projects, the shift differential included a 15% premium, eight hours’ pay for seven hours worked, and overtime pay for hours worked over seven in a shift.

Helix did not pay the higher wage rates for the “third shift.” Instead, Helix paid the “first shift” or “day shift” rates. Therefore, Plaintiffs allege that Helix owes the difference to all the inside wiremen who worked at night on these projects.

Based upon the claim for shift differential, Plaintiffs allege the following legal claims or “causes of action”: (1) Unfair Competition under Business & Professions Code section 17200 *et seq.*; (2) Failure to Pay Overtime; (3) Failure to Pay Prevailing Rates in Violation of Labor Code section 1770 *et seq.*; (4) Payment of Wages and Penalties - Labor Code sections 201, 202, 203; and (5) Violation of California Labor Code section 226 (adequate wage statements). Plaintiffs seek injunctive and/or declaratory relief, restitution of wages, interest on wages owed, monetary penalties for wage violations, an accounting of all amounts due, and attorney’s fees and costs. Helix denies that it violated any wage laws or that any amounts are owed.

The Court has certified the following class:

Persons who have been employed by Helix to perform any work as inside wiremen during the hours between 12:30 a.m. and 9:00 a.m. for which Helix did not pay them the third shift differential, on the Telecommunications Upgrade projects at California State University Sacramento, Chico, Fresno, Fullerton, San Diego and San Jose, at any time on or after August 17, 2001.

The Court has not made any decision about who is right or wrong in the lawsuit or who will win at trial. This Notice is not to be understood as an expression of any opinion of the Court.

The law firm of Weinberg, Roger & Rosenfeld, 1001 Marina Village Parkway, Suite 200, Alameda, California 94501 (“Class Counsel”) is prosecuting this action on behalf of the class. Class Counsel represents the class members on a contingent basis, without any charge to class members. Any reimbursement of costs or expenses or award of attorney fees to Class Counsel will be made by the Court from any recovery for the class members or from Helix Electric, Inc. directly.

Class members may choose to remain in the class or to be excluded from it (“opt out”). If you do not request exclusion from the class, you will remain a member of the class and will be bound by the outcome of the lawsuit. Any claims that you may have against Helix Electric, Inc. 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 share in any recovery obtained for the class, but you will not be able to present the same claims in another lawsuit regardless of the outcome in this action. IF YOU WANT TO REMAIN A MEMBER OF THE CLASS, NO ACTION IS NECESSARY AT THIS TIME.

If you wish to exclude yourself from the class, you must send a written “Request for Exclusion” postmarked on or before April 30, 2009 to the following address:

Kelly Smith et al. v. Helix Electric, Inc. Administrator
c/o Desmond, Marcello & Amster
6060 Center Drive, Suite 825
Los Angeles, CA 90045

The Request for Exclusion must include your name and address, and must specifically state that you wish to request to be excluded from the plaintiff class in the case entitled *Kelly Smith et al. v. Helix Electric, Inc.*, Case No. 05 ASO 3603, Superior Court of Sacramento.

If you request to be excluded from the class, you will not share in any recovery (if any) that may be made in the class action. You will not be bound by any judgment in the class action. You are free to file your own lawsuit against the Defendant. Do not send a request for exclusion if you wish to remain in the class.

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

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You may wish to seek the advice and guidance of your own attorney, at your own expense, about your legal rights. You may also enter an individual appearance in the action through counsel, at your own expense, but it is not necessary to do so in order to be included as a member of the class. For further information concerning this Notice, you may also contact Weinberg, Roger & Rosenfeld at the address shown above.

DO NOT WRITE OR CALL THE COURT OR THE CLERK OF THE COURT.