

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO – UNLIMITED JURISDICTION

STANLEY ITA, WILLIAM SHELTON, JAMES FOX,
KENNETH FOX, RICHARD SPONSLER, ALEXIS DEPUY,
LATHE WATT, BERNABE CHAVEZ, JOHN
GOUAILHARDOU, KEITH CAMPBELL, VICTOR STEFANINI,
JAMES JOHNSON, GREGORY GREBIASKI, GERARDO
LOPEZ, JESUS MANCILLAS, JUAN GABRIEL MARTINEZ,
DANIEL GENE PARK, JR., MICHAEL RILEY, DANA
WALLER, MICHAEL CRECIBENE, KELVIN CAMPBELL,
JASON WILLIAMS, JOHNNIE JONES, JR., GERARDO
ALVARADO, MOHAMED ATTIYAT, JOHN CRONIN, NEIL
CRUZ, DAVID DIAZ, GARY KASSIMOV, MARIO LEDESMA,
AUGUSTO PALACIOS, JOSEPH PARK, GAVINO RENTORIA,
LUIS MELGAR, PHILLIP TANG, JOSEPH TOLBERT, JAIME
TORRES and RICHARD WIEDER, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

ROTO-ROOTER SERVICES COMPANY, a California
corporation dba ROTO-ROOTER and NUROTOCO, and DOES 1
through 50, inclusive,

Defendants.

Case No. CIV 462474

Dept. 1, Hon. Carol L. Mittlesteadt

CLASS ACTION

**NOTICE OF SETTLEMENT OF
CLASS ACTION**

Trial Date: TBD

Complaint Filed: April 24, 2007

A proposed settlement (the “Settlement”) has been reached in the class action lawsuit against Roto-Rooter Services Company, Inc., dba Roto-Rooter and Nurotoco (“Defendant”) for alleged failure to pay wages for standby time, travel time, overtime, and deductions for callbacks and for equipment replacement, missed meal and rest periods, and for other wages, and unpaid and interest and penalties thereon. The maximum amount which Defendant is obligated to pay under the Settlement is two million dollars (\$2,000,000.00). Deductions and credits may be allowed against that Settlement Amount before distribution to Class Members. A Notice of Estimated Distribution is attached to this notice which estimates the portion of the total settlement funds distributable to you assuming that the deductions contained in this notice are approved by the Court. **Because your rights will be affected by this Settlement, it is extremely important that you read this Notice and the attached Notice of Estimated Distribution carefully.**

A. PURPOSE OF THIS NOTICE

TO ALL PERSONS WHO ARE MEMBERS OF THE CLASS WHICH WAS CERTIFIED IN THIS LITIGATION:

You have been identified as a member of this class action lawsuit. Members of the class are defined as **persons who were employed by Defendant from April 24, 2003, as plumbers, sewer and drain technicians or employees, combination plumbing/sewer and drain technicians or employees, certified trainers, excavation employees, or industrial/municipal technicians or employees, whether hourly-paid or commissioned, and**

with or without expenses, from April 24, 2003, through May 19, 2008 (the “Class Members”). This document is intended to (1) give you notice of the proposed settlement in this litigation and your option to participate in it; (2) give you notice of a court hearing to decide the fairness of the proposed settlement; (3) explain to you how you can object to the proposed settlement; (4) explain how to be excluded (opt-out) from the settlement if you wish; (5) explain how to submit protest if you believe that the amount to be distributed to you is not correct; and (6) explain how and when settlement funds are paid out.

B. DESCRIPTION OF THE LAWSUIT

1. On April 24, 2007, Plaintiffs filed a class action complaint for damages and equitable relief. The Complaint alleged, in substance, that Defendant failed to properly pay or reimburse class members for standby time (time spent waiting between assignments), travel time (time spent traveling to jobs or between jobs) overtime, improper deductions from pay for customer call backs and for replacement of equipment, missed meal and rest periods and other failures to pay wages or reimburse employees and for interest and penalties associated therewith.

2. The complaint sought damages and statutory penalties from Defendants with respect to the claims alleged in paragraph 1, above.

3. The Court has designated the Plaintiffs Named in the Caption (“Named Plaintiffs”) shown at the top of this Notice as Class Representatives, and has appointed Randall Crane, Law Offices of Randall Crane, 180 Grand Avenue, Suite 1550, Oakland, California 94612, as counsel for the class (“Class Counsel”). You will be considered a participant in the settlement and receive distribution of settlement funds even though your name is not listed on the Caption if you are a Class Member and you do not exclude yourself from the settlement by the method described below.

4. Defendant denies each and every of Plaintiffs’ allegations described in paragraphs 1 and 2, above, and those alleged in the complaint. Defendant further claims all applicable laws were complied with.

5. On May 19, 2008, the Court entered an order conditionally certifying this action as a class action and defining the class as set forth in Section A, above.

6. Defendant denies and contests each of plaintiffs’ claims and there is no certainty that plaintiffs would prevail at trial. Further there is no certainty that Plaintiffs will be able to collect any judgment which they might obtain. Given these facts, the parties have, after mediation and negotiation, decided to settle the claims to avoid the substantial expense and uncertainty associated with continuing this litigation. The settlement is subject to final approval by this Court. If you are a Class Member, you have a right to object to the terms of the settlement if you believe that they are not fair, you have the right to be excluded from the settlement if you do not wish to be bound by its terms, and, assuming you do not choose to be excluded from the settlement, you have a right to submit a Protest stating that the portion of the settlement proceeds proposed to be paid to you as set forth in the Notice is not correct and request a review of that amount.

7. The parties have agreed that Desmond, Marcello & Amster will administer the settlement (“Settlement Administrator”).

8. On May 19, 2008, the Court granted preliminary approval to the proposed Settlement. The Court will decide whether to give final approval to the Settlement at a hearing scheduled for July 28, 2008.

C. SUMMARY OF PROPOSED SETTLEMENT

Subject to final Court approval, the terms of the Settlement are as follows:

1. The total settlement amount is \$2,000,000. This amount is subject to reduction and credits as described below. The remainder will be available for distribution to the Class. The amount distributed to each class member will be calculated according to the method described below. A Notice of Estimated Distribution of

settlement funds estimated to be distributable to you in the Settlement is attached. **If you agree with the amount shown in the Notice, you do not have to take any action. You do not have to submit a claim.**

2. Class Members who wish to exclude themselves from the class must timely submit a fully executed Request for Exclusion by the method described below.

3. Class Members who believe that the amount of funds to be distributed to that individual Class Member is not correct must timely submit a fully executed Protest with documentary evidence showing the correct amount of funds and the method by which it is calculated. The administrator will consider any such Protests and, if it is clear that an error has occurred, notify that Class Member of the correction. If the Administrator rejects the Protest, funds will be paid as set forth in the Notice subject to final court order.

4. The settlement funds are to be distributed in the following way:
Each Class Member's Settlement Award will be comprised of amounts for (a) reimbursement for prior backcharges and deductions, (b) overtime and related wage components, and (c) penalties and interest, calculated as follows:

A. Reimbursement for Prior Backcharges and Deductions. Each Class Member shall receive reimbursement for all deductions from Class Member's wages made by Defendant for backcharges for tools, equipment, blades, cables, uniforms and similar deductions and for negative adjustments to commissions for call-backs, reductions based on customer complaints, guarantees of service, and the like but not for discount coupons or other sales incentives. No payroll or other taxes shall be withheld from reimbursement, but Class Members shall receive an IRS Form 1099 which includes any such amount and shall be advised that no tax has been withheld at the time of disbursement.

The amount attributed to the reimbursement for this purpose shall be one-third (1/3) of the total funds available for distribution to the class (after deduction of attorneys fees and costs and enhancements and other deductions as described above). Each Class Member's share of this reimbursement fund will be calculated by multiplying the fraction x/y by the total amount attributed to the reimbursement where x equals the dollar amount of the special payment (described below) previously paid or offered to the member and where y equals the sum of the total of all the individual x 's.

To the extent a Class Member has already received special payment in 2006 or 2007 as reimbursement from Defendant for previous deductions and backcharges, that amount shall be credited against the Class Member's Settlement Award and the total amount of the Settlement Fund. If a check was previously issued by Defendant for such a special payment but was not actually cashed by the Class Member, Defendant shall stop payment of that check and such previous payment shall not be a credit against the Class Member's Settlement Award or the total amount of the Settlement Fund.

B. Payment for Overtime, Waiting Time, Travel Time, Call Back Time, Missed Meal and Rest Breaks, On-call Time, and Other Wages. Each class member shall receive payment for any uncompensated overtime, waiting time, travel time, call back time, missed meal and rest breaks, on-call time, and other wages unpaid while employed by Defendant during the relevant work period.

Each member's share will be calculated by multiplying the fraction x/y by one-third (1/3) of the Settlement Fund after payment of attorneys fees, costs, administration fees and class representative enhancements and also reimbursement as described in section 4A above, where x equals the total number of hours actually worked by the Class Member during the Class Period and where y equals the total number of hours worked during the Class Period by all Class Members (y being the sum of the total of all the individual x 's). The denominator shall not include hours worked by Class Members who have opted out of the Class.

The total amount calculated under this Paragraph 4B shall be each Class Member's "Gross Wage Component." From each Settlement Class Member's Gross Wage Component, payroll deductions will be made for state and federal income tax withholding and any other applicable payroll deductions owed by the Settlement Class Member, resulting in a "Net Wage Component."

To the extent a Class Member has already received an additional special payment in 2006 or 2007 for past overtime, inventory time, or similar items, that amount shall be credited against the Class Member's Settlement Award and the total amount of the Settlement Fund. If such payment has been offered and delivered to

a Class Member but not cashed, the check issued by Defendant will be stopped, and such payment will not be a credit against the Class member's Settlement Award or the total amount of the Settlement Fund.

C. Penalties and Interest. The Parties have agreed that the amount of penalties and interest is difficult to ascertain. Accordingly the Parties attribute the remaining one-third (1/3) of the settlement funds after distribution under Paragraphs 4A and 4B for distribution to the class for Penalties and Interest. Each Class Member's share of Penalties and Interest shall be calculated in the same manner as the Class Member's share of Payment for Overtime, Waiting Time, Travel Time, Call Back Time, Missed Meal and Rest Breaks, On-call Time, and Other Wages, as described in Paragraph 4B, and specifically based on the ratio of the individual Class Member's hours worked to the total hours worked by all Class Members. No payroll or other taxes shall be withheld from the payment for Penalties and Interest, but Class Members shall receive an IRS Form 1099 which includes any such amount and shall be advised that no tax has been withheld at the time of disbursement.

To the extent a Class Member has already received a special payment in 2006 or 2007 for past penalties or interest, that amount shall be credited against the Class Member's Settlement Award and the total amount of the Settlement Fund. If such payment has been offered and delivered to a Class Member but not cashed, the check issued by Defendant will be stopped, and such payment will not be a credit against the Class Member's Settlement Award or the total amount of the Settlement Fund.

5. Upon Entry of the Final Order and Distribution under the terms of the Settlement Agreement, Each Class Member shall be deemed to have released Defendants for any and all claims regarding the allegations of unpaid reimbursements and wages, interest and penalties through the court's Final Approval of Settlement.

6. Enhancements. Subject to final court approval, an Enhancement of \$500.00 will be paid to each class representative (named in the caption above) who executed the Stipulation for settlement for their assistance and services in completing the class settlement. Subject to final court approval an enhancement of \$1,500.00 will be paid to the following Named Plaintiffs who expended substantial personal time maintaining the action: Stanley Ita, William Shelton, Alexis Depuy, Lathe Watt, Bernabe Chavez, Michael Riley, Michael Crecibene, Kelvin Campbell, and John Cronin. These enhancements are in addition to any payment such persons may have as Class Members.

D. ATTORNEYS' FEES AND COSTS

An application for approval of fees and costs in the amount of \$633,000.00 has been made by Class Counsel to the Court without objection by Defendant.

E. CLAIMS ADMINISTRATOR

The Court has appointed an independent administrator to distribute the funds to the Class Members and to perform the other duties of the Administrator. For the purpose of estimating funds available for distribution, the cost of administration has been estimated at \$25,000.00, subject to final court approval.

F. TO REQUEST EXCLUSION FROM THE SETTLEMENT (OPT-OUT)

If you do not want to participate in the Settlement, you must complete and mail a "Request for Exclusion" (Opt-Out) to the Claims Administrator at the address listed above. The request should state that you want to be excluded from the settlement and include your name, address, telephone number. In order to be valid, your Request for Exclusion must be postmarked no later than July 2, 2008.

If you request Exclusion, you will not be eligible to receive any of the benefits under the Settlement. However, you will retain whatever rights you may presently have against Defendant for wages and related damages, but will not be represented by Class Counsel.

If you do not request Exclusion, you will be bound by the judgment approving the Settlement.

G. TO OBJECT TO THE SETTLEMENT

If you believe the Settlement is unfair or inadequate in any respect, you may object to the Settlement, personally or through an attorney, by filing a written objection with the San Mateo County Superior Court, located at 800 North Humboldt Street, San Mateo, CA 94401 and by mailing a copy of your objection to Class Counsel and the Claims Administrator at the addresses shown below. All objections must be signed and set forth your address, telephone number, and the name of the case and case number. All objections must be filed and postmarked no later than July 2, 2008. If you submit an objection, you may (but do not have to) appear, personally or through an attorney, at your own expense, at the final approval hearing (discussed below). Your objection should clearly explain why you object to the Settlement and must state whether you (or someone on your behalf) intend to appear at the final approval hearing.

Any Class member who does not object in the manner provided above shall be deemed to have waived any objections, and shall be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees and costs, the claims process, the enhancement awards to the Plaintiffs, and all other aspects of the Settlement. If the Settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution.

H. TO PROTEST THE AMOUNT BEING DISTRIBUTED

If, after reviewing the attached Notice showing the amount to be distributed to a Class Member, the Class Member believes there has been an arithmetical or other error in the calculation, the Class Member may protest the amount and request correction by mailing a letter stating the nature of the error, showing an estimated corrected calculation, and providing any documentation demonstrating the error. The Protest must be mailed to the Class Administrator post-marked not later than July 2, 2008.

The Class Administrator will consider the Protest. If it appears that an error has occurred, the error will be corrected. If it appears that the calculation is correct, the Administrator will notify the Class Member and proceed with the settlement distribution.

I. NULLIFICATION OF THE SETTLEMENT AGREEMENT

If the Court does not issue its order giving final approval of the settlement, Defendant reserves the right to void the Settlement and proceed with the action. If more than 5% of the class exclude themselves (opt-out) from the settlement, Defendant reserves the right to void the Settlement and proceed with the action.

J. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, and Class Counsel's request for attorneys' fees, costs, and enhancement to named Plaintiffs will be held on July 28, 2008 at 9:00 a.m. in Department 1 of the San Mateo County Superior Court, located at 800 North Humboldt Street, San Mateo, CA 94401. The Final Approval Hearing may be continued without further notice.

K. DISTRIBUTION OF FUNDS AFTER FINAL APPROVAL

Within 14 days after entry of Final Approval Order approving the settlement, the Administrator will distribute the settlement funds pursuant to the Court's Final Approval Order without further notice.

L. REDISTRIBUTION OF UNCASHED FUNDS

After distribution, checks sent by the Administrator which are not cashed within 130 days, will be cancelled and the funds redistributed as penalties and interest without withholding to the Class Members whose checks did cash by the same method of calculation as penalties and interest were initially calculated. If the uncashed checks total less than \$6000.00, the funds shall instead be paid to the Legal Aid Foundation of San Mateo County or such other qualified charitable organization as the Court may direct.

M. ADDITIONAL INFORMATION

This Notice only summarizes the lawsuit, the Settlement and related matters. For more information, you may inspect the Court files at the records office located at 800 N. Humboldt Street, San Mateo, CA 94401 from 8:00 a.m. to 4:00 p.m., Monday through Friday. Any questions regarding this Notice or the Notice of Estimated Distribution should be sent to the Claims Administrator at the address and telephone number below. Alternatively, you may contact Class Counsel at the addresses and telephone numbers set forth below. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Claims Administrator.

The names and addresses of persons you may contact for further information are:

CLASS ADMINISTRATOR:

Desmond, Marcello & Amster

Addressed as follows:

Ita v. Roto-Rooter Settlement Administrator

c/o Desmond, Marcello & Amster

P.O. Box 451999

Los Angeles, CA 90045

(310) 337-0640

ATTORNEYS FOR THE CLASS:

Law Office of Randall Crane

180 Grand Ave., Suite 1550

Oakland, CA, 94612

(510) 465-4606 (Tel)

(510) 465-4643 (Fax)

Attention: Randall Crane

PLEASE REMEMBER THAT ANY OBJECTIONS ARE TO BE FILED WITH THE COURT AT THE ADDRESS SHOWN ABOVE WITH COPIES SENT TO CLASS COUNSEL AND CLASS ADMINISTRATOR AT THE ADDRESSES SHOWN ABOVE. CLASS COUNSEL AND CLASS ADMINISTRATOR WILL NOT FILE OBJECTIONS ON BEHALF OF OBJECTING PARTIES.

REQUESTS FOR EXCLUSION OR PROTESTS ARE TO BE SENT TO THE CLASS ADMINISTRATOR AND MUST COMPLY WITH THE REQUIREMENTS DESCRIBED ABOVE. DO NOT SEND TO THE ATTORNEYS FOR THE CLASS OR TO THE COURT.

PLEASE DO NOT CONTACT THE COURT DIRECTLY IN THIS MATTER

Dated: May 19, 2008

/s/ Carol L. Mittlesteadt

Judge of the Superior Court