

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MARK HARDIE, an individual; and on behalf of all others  
similarly situated,

Plaintiffs,

vs.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAL-  
ISO), a California Not For Profit, For Public Benefit  
Corporation and DOES 1 through 100, inclusive,

Defendants

CASE NO. BC220839

Judge Anthony Mohr, CCW

**NOTICE OF PARTIAL CERTIFICATION OF CLASS ACTION**

**PLEASE READ THIS NOTICE CAREFULLY  
YOUR LEGAL RIGHTS MAY BE AFFECTED**

**TO: ALL TRANSMISSION DISPATCHERS CURRENTLY OR FORMERLY  
EMPLOYED BY CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
(CAL-ISO) FROM JANUARY 1, 1997 TO THE PRESENT**

PLEASE TAKE NOTICE that a Class Action lawsuit is pending in the Superior Court of the State of California for the County of Los Angeles. On November 6, 2001, the Court granted Plaintiff's Motion for Class Certification as to all Transmission Dispatchers ("TD") who were, or are currently, employed by Cal-ISO. The Court did not certify for inclusion in the Class any other Grid Control Room ("GCR") employees. If you are, or were, employed as a TD at any time from January 1, 1997 to the present you may be a member of the Class for whom relief is sought and you should read this Notice carefully. This Notice is to inform you about the lawsuit, the Court's order certifying the case as an *opt-in Class Action*, and your rights as a potential member of the Class. If you elect to become a member of the Class, you will be bound by any and all determinations or judgments in the litigation.

## **I. Nature And Status Of The Lawsuit**

Plaintiff alleges that, from its inception, Cal-ISO has violated California labor laws by improperly classifying as exempt, various Grid Control room employees. In this regard, it is Plaintiff's contention that Cal-ISO has failed to properly compensate these employees for any and all hours worked in excess of eight (8) hours a day from January 1, 1997 to December 31, 1998 and January 1, 2000 to the present, or for all hours worked in excess of forty (40) hours per week during the time period of January 1, 1999 to December 31, 1999.

Plaintiff brought a motion to certify a Class of Plaintiffs to include all employees that work or had worked in the Grid Control Area. The Court ultimately certified an opt-in Class which includes only TDs.

Cal-ISO denies any liability relating to these allegations and denies that the class members and GCR employees have been mis-classified as exempt or are entitled to overtime compensation, restitutionary relief or other damages. The Court has not made any rulings on the merits of Plaintiff's claims or Defendant's defenses and the parties have not yet scheduled the arbitration or any trial in this matter.

## **II. Class Certification And Class Definition**

The Class is defined as follows: **All TDs who were, or are currently, employed by Cal-ISO at any time from January 1, 1997 to the present.**

Any TD who wishes to participate in the Class action *must affirmatively indicate* his or her desire to be included in the class action. **Further, Cal-ISO cannot retaliate against you in any way for exercising your rights in this matter or under California law. Requesting inclusion in the Class will not necessarily affect your work schedule.**

## **III. Amount Of Recovery**

If a recovery is obtained for the entire Class, by way of arbitration or settlement, the amount each class-member will receive is unknown at this time. The amount for each class member shall depend on the amount of overtime hours worked during the class period by each individual employee. In some cases the Class period could be more than sixty (60) months and thus the amount owed to each Class member could be significant and substantial for every hour worked over eight (8) hours in a day or over forty (40) hours in a week - depending upon the period of time as set forth in Section I herein.

## **IV. Class Representative And Class Counsel**

The Court has appointed Mark Hardie as the Class Representative for the TDs. The Court has appointed as Plaintiffs' Class Counsel the law firm of Arias, Ozzello & Gignac, LLP.

If you are a TD, and you opt-in to the Class, as a member of the Class, you may communicate with, seek the advice of, or enter an appearance through counsel of your own choice at your own expense. Any TD who opts-in and does not enter an appearance either individually, or through his or her own counsel however, will be represented by Class Counsel and will have no individual liability to Class Counsel for attorneys' fees and costs.

## **V. Attorneys' Fees And Costs**

In class actions, counsel who generate a monetary recovery or other benefit for the Class are entitled to an award of attorneys' fees and costs representing a reasonable percentage of the recovery in recognition of their efforts, expenses, risks, and performance. This percentage generally ranges from 25% to 40% of the recovery, if any, and Class Counsel will apply to the Court for an award of attorneys' fees and for reimbursement of their actual out-of-pocket costs, if Plaintiff prevails. In addition, the California Labor Code allows anyone who prevails on a claim for wages or overtime compensation to seek payment of the attorneys' fees incurred directly from the employer. Here, if Plaintiff prevails, Class Counsel will seek reimbursement of attorneys' fees and costs from Cal-ISO and your recovery will not be affected.

## **VI. Procedures For Opting Into The Class**

If you are a current or former TD, you are a member of the Class as defined on page two (2) of this notice. If you wish to participate in the Class action portion of this litigation, you must complete the Request For Inclusion form and forward it to the address listed on the form. If you do not wish to participate in the Class Action portion of this litigation, you may disregard the Request for Inclusion form and take no further action. If you misplace the form, or need another copy of the form, please feel free to contact counsel for the Class as listed below.

**PLEASE NOTE: THE COMPLETED REQUEST FOR INCLUSION FORM MUST BE POSTMARKED BY MARCH 25, 2002.**

To opt into the Class you must send the enclosed Opt-In Form to the following address:

TD Class Action Claims Administrator  
c/o Desmond, Marcello & Amster  
6060 Center Drive, Suite 825  
Los Angeles, California 90045

If you timely request inclusion in the Class, you will: (1) be included in the Class; (2) be bound by any determination or judgment entered in the litigation; (3) participate in any recovery obtained through arbitration or settlement in this litigation; and (4) be precluded, by reason of your decision to request inclusion in the Class, from otherwise prosecuting an individual action at your own expense.

## **VII. Additional Information**

The information contained in this Notice is only a summary of the litigation. For more detailed information, you may review the complete court files in this case at the office of the Clerk of the Los Angeles County Superior Court, Department 309, 600 South Commonwealth Avenue, Los Angeles, California, 90005, during its regular business hours.

If you choose to become a member of the Class, you can contact Class Counsel for additional information. Should you wish to obtain more information about the decision whether to join the Class or wish to obtain more information about this litigation and how it may affect your rights, you may contact either or both of the following:

### **COUNSEL FOR CLASS PLAINTIFFS**

Mike Arias, Esq.

Mark A. Ozzello, Esq.

Stephanie E. Joseph, Esq.

### **ARIAS, OZZELLO & GIGNAC, LLP**

6701 Center Drive West, Suite 950

Los Angeles, California 90045

(310) 670-1600

email: [marias@aogllp.com](mailto:marias@aogllp.com)

### **COUNSEL FOR CAL-ISO**

John C. Fox, Esq.

Daniel J. McCoy, Esq.

### **FENWICK & WEST LLP**

2 Palo Alto Square

Palo Alto, California 94306

(650) 494-0600

email: [JFox@Fenwick.com](mailto:JFox@Fenwick.com) or

[DmcCoy@Fenwick.com](mailto:DmcCoy@Fenwick.com)

**DO NOT CONTACT THE COURT REGARDING SUCH QUESTIONS.**

DATED: February 8, 2002

Judge Anthony J Mohr,  
Superior Court of the County of Los Angeles

## Request For Inclusion Form

**PLEASE NOTE:** This Form Must Be Returned If You Are A TD And Want To Be Included In This Class Action Lawsuit.

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I have read the Notice of Certification of Class Action. I have decided to request inclusion in the TD Class Action.

Name: \_\_\_\_\_  
(Please Print)

Signature: \_\_\_\_\_

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

Home telephone number: \_\_\_\_\_

Work telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Please return this form in the enclosed self-addressed stamped envelope, **postmarked no later than March 25, 2002**, to the following address:

TD Class Action Claims Administrator  
c/o Desmond, Marcello & Amster  
6060 Center Drive, Suite 825  
Los Angeles, California 90045