

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUBEN PABLO, BONNIE COURSEY, and  
JOHN BAHR,

No. C 08-03894 SI

Plaintiffs,

**ORDER RE: JURY INSTRUCTIONS  
(CLASSIFICATION INSTRUCTION)**

v.

SERVICEMASTER GLOBAL HOLDINGS,  
INC., et al.,

Defendants.

---

In accordance with the agreement of the parties during a post-trial conference today, the  
Classification Instructions to be given will read as follows:

**STRUCTURAL PEST CONTROL FIELD REPRESENTATIVES**

Plaintiffs were licensed as “Structural pest control field representatives.” As such they were licensed to (1) secure structural pest control work, (2) identify infestations or infections, (3) make inspections, (4) apply pesticides, and (5) submit bids for or otherwise contract on behalf of a registered company.

**CLASSIFICATION OF WORK ACTIVITIES**

To determine whether an employee was an outside sales person, you must identify the types of activities that employee customarily and regularly performed during his or her work day and then determine whether each such activity was an outside sales activity, or not. You must then determine the approximate average time you find the employee spent on each of these activities.

To determine whether an activity is an outside sales activity, you should consider each activity separately and determine whether a person who performed only that activity would be considered a salesperson. Related activity – such as preparation or

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

paperwork – should be classified according to whether the underlying primary activity was an outside sales activity or not.

For a work activity to count as time spent performing outside sales activities, the activity must occur away from the employer’s place of business.

If an employee travels to a destination to engage in both sales and non-sales activities, the travel time must be apportioned between the two types of activities for purposes of determining the total amount of time spent doing sales and non-sales work.

**IT IS SO ORDERED.**

Dated: October 24, 2011

  
\_\_\_\_\_  
SUSAN ILLSTON  
United States District Judge: