

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02525-MEH

ANDREW L. DEMROW, on behalf of himself and others similarly situated,

Plaintiff,

v.

ENSIGN UNITED STATES DRILLING, INC.,

Defendant.

ORDER RE STIPULATED MOTION FOR COLLECTIVE ACTION CERTIFICATION,
HOFFMAN-LA ROCHE NOTICE, AND TOLLING OF CLAIMS

THIS MATTER, having come before the Court on the parties' Stipulated Motion for Collective Action Certification, Hoffman-LaRoche Notice and Tolling of Claims, and good cause having been shown therefore, it is hereby ORDERED:

1. Defendant shall disclose, within twenty (20) days, identifying information including the name, last known telephone number and address for each MWD employed by Defendant at any time during the three years prior to the filing of this action, the dates of their employment, their rate of compensation and hours worked.
2. Prospective-Plaintiffs are entitled to have their claims tolled from November 17, 2015 until June 5, 2016, the deadline for filing consents as established by this Court.
3. The deadline for filing of consents is June 5, 2016. All consents must be received or postmarked on or before June 5, 2016.
4. A *Hoffmann-La Roche* notice, in the form attached hereto, is approved for mailing via first class mail by Plaintiff's counsel or his designee to all Prospective-Plaintiffs within twenty (20) days from the date that the names, addresses and other data above

agreed to be produced of the Prospective-Plaintiffs is disclosed by Defendant.

DATED this 23rd day of February, 2016, at Denver, Colorado.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive style with a large initial 'M' and a stylized 'H'.

Michael E. Hegarty
United States Magistrate Judge

NOTICE OF COLLECTIVE ACTION

TO: All persons who served as Measuring While Drilling (MWD) operators for Ensign United States Drilling, Inc. after November 17, 2012 who were not paid overtime of at least one and one-half times the regular hourly rate at which you were compensated for hours worked in excess of 40 hours during any workweek.

INTRODUCTION

The purpose of this Notice is (1) to inform you of the existence of collective action litigation under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* (the "FLSA") in which you potentially are "similarly situated" to the Plaintiff, (2) to advise you of how your rights may be affected by this litigation, and (3) to instruct you on the procedure for participating in this litigation in the event that you are eligible and have the desire to do so. This notice only seeks to identify those persons who wish to be involved in this case.

DESCRIPTION OF THE LITIGATION

Plaintiff's Position: On November 17, 2015 Andrew Demrow filed a complaint in the United States District Court for the District of Colorado against Ensign United States Drilling, Inc. on behalf of himself and past and present MWDs performing work for Ensign United States Drilling, Inc. *Demrow v. Ensign United States Drilling, Inc.*, Civil Action No. 15cv02525-MEH.

The parties have agreed that MWDs working for Ensign United States Drilling, Inc. after November 17, 2012 are similarly situated to the Plaintiff, and that these MWDs have a right to join in this collective action. The parties have also agreed that the MWDs were not paid overtime.

The Plaintiff alleges that he and other MWDs are owed time and a half for hours worked in excess of 40 hours in a workweek. The plaintiff seeks to recover the unpaid overtime compensation, along with liquidated damages, attorneys' fees and costs, and all relief he is entitled to under the FLSA for three (3) years prior to the filing of the lawsuit.

Ensign United States Drilling, Inc.'s Position: Ensign disputes the amount of overtime that the Plaintiff and those who are similarly situated would be entitled to, the availability of liquidated damages, and the attorney fees and costs.

COMPOSITION OF THE COLLECTIVE ACTION

If you meet each of the following criteria, you may be eligible to join this litigation:

- You were employed by Ensign as an MWD operator at any time after November 17, 2012; and,
- You worked as an MWD in excess of forty hours during any workweek after November 17, 2012; and,
- You were not paid overtime compensation for hours worked as an MWD in excess of forty during any workweek after November 17, 2012.

THE CURRENT STATE OF THIS LITIGATION

This litigation is in the early stages. This case has been certified as a collective action and the Court has ordered that this Notice be sent to you. The Court has made no ruling on the claims.

EFFECT OF JOINING THIS LITIGATION

If you fit the definition above and you elect to join this litigation, you will be bound by the decision of the District Court, whether it is favorable or unfavorable. You will also be bound by any settlement that may be reached on behalf of the employees who participate in this litigation.

If you do join, you will be required to participate in the discovery process. You will be required to answer written questions, under oath, concerning the work you did, how you were compensated, and about overtime hours you claim for which you were not compensated. Ensign may request documents from you, and you may be required to testify in Denver, Colorado at a deposition and/or at a hearing or trial. However, you will be represented in all these matters by the attorneys for Plaintiff.

The attorneys for Plaintiff are being paid on a contingency fee basis. This means that if you join the suit, you will not be required to pay attorney's fees to Plaintiff's counsel if you do not receive a recovery. If Plaintiff prevails in this litigation, the attorneys for the class will request that the Court either determine or approve the amount of attorneys' fees and costs they are entitled to receive for their services. Should you join this litigation, this fee structure will impact your potential recovery. You may request a copy of the contingency fee agreement executed by the Plaintiff from the Plaintiff's counsel named below.

There is, of course, no guarantee of any recovery. If you join this litigation and Plaintiff does not prevail against Ensign, court costs and expenses may possibly be assessed against you. Before you decide whether to file the Consent Form enclosed with this notice, you may wish to discuss these issues, and any other issues of concern to you, with Plaintiff's counsel or another attorney of your choosing, but that will be up to you.

If you return the consent form attached to this Notice, you are agreeing to: (1) designate Plaintiff as your agent to make decisions on your behalf concerning this litigation; (2) the method and manner of conducting this litigation; (3) the entering of an agreement with counsel for Plaintiff concerning attorneys' fees and costs; and (4) all other matters pertaining to this litigation. The decisions and agreements made and entered into by Plaintiff will be binding on you if you join this litigation.

You are not required to use the attorneys representing Plaintiff. You may also participate in this lawsuit by retaining the services of a lawyer of your own choosing. If you decide to participate in this litigation through another attorney, your attorney must file with the District Court a "Consent to Join" on or before **JUNE 5, 2016**. If, on the other hand, you are eligible to participate in this lawsuit and agree to be represented by Plaintiff through their attorneys, your counsel will be:

Sander N. Karp

KARP NEU HANLON, P.C.
201 14th St., Suite 200
P.O. Box 2030
Glenwood Springs, CO 81602
Telephone: (970) 945-2261
snk@mountainlawfirm.com

HOW TO PARTICIPATE IN THIS LITIGATION

If you want to participate in this litigation and agree to be represented by the Plaintiff, through his attorneys, you must take affirmative steps to indicate your intent to join the action. You must complete, sign and mail, the "Consent to Join" form in the enclosed envelope to the appointed administrator: Ensign Notice Administrator, c/o Class Action Administration, Inc., P.O. Box 6877, Broomfield, CO 80021 or you may return your form by email to ensignclaim@classactionadmin.com.

Your complete and signed "Consent to Join" form must be returned on or before **JUNE 5, 2016**. If your "Consent to Join" form is not postmarked or received on or before June 5, 2016, you will not be allowed to participate in this litigation.

Submitting a "Consent to Join" form does not guarantee that you will be able to participate in the trial of this litigation as this may depend upon a ruling from the Court that you and the named Plaintiff are "similarly situated," and are otherwise entitled to proceed.

EFFECT OF NOT JOINING

As an alternative to joining this lawsuit, you may do nothing. You may also file your own lawsuit with counsel of your choosing. If you choose not to join this litigation, you will not be affected by any judgment or settlement, whether it is favorable or unfavorable to Plaintiff and the collective class. If you do not file a "Consent to Join" form, you will not be eligible to receive any back overtime wages or relief from this litigation if the Plaintiff prevails. Any such relief would only be obtainable by you if you filed your own claim or other action as prescribed by and within the time provided by law, and you then prevail on your claims. You are not waiving any rights to assert claims against Ensign United States Drilling, Inc. by failing to return the consent form.

If you choose not to join this litigation, you should be aware that the FLSA has a statute of limitations of two or three years. If you choose not to join this litigation or file your own litigation, the statute of limitations will continue to run. Any claims for overtime pay pursuant to the FLSA which are not filed within these time limits may be denied as untimely. If you choose not to join in this action or file your own action, some or all of your potential claims may become time-barred.

NO RETALIATION PERMITTED

Federal law prohibits Ensign United States Drilling, Inc. from retaliating against you because you elect to join this action by returning the "Consent to Join" form, or otherwise exercising your rights under the FLSA.

FURTHER INFORMATION

For further information about this lawsuit, you may contact the following attorneys if you have

any questions about this litigation or any of the issues raised in this notice, or if you would like to obtain more information:

Attorneys for Plaintiff and Collective Action Members

Sander N. Karp
P.O. Box 2030
Glenwood Springs, CO 81602
Telephone: (970) 945-2261
snk@mountainlawfirm.com

Attorneys for Ensign United States Drilling, Inc.

Brooke A. Colaizzi
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ekeimig@shermanhoward.com

**THIS NOTICE HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLORADO. THE COURT HAS TAKEN NO POSITION IN THIS CASE
REGARDING THE MERITS OF THE CLAIMS.**

CONSENT TO JOIN COLLECTIVE ACTION

Demrow v. Ensign U.S. Drilling, Inc.,

Civil Action No. 15cv02525

1. I consent to join the referenced litigation so that I may pursue a claim that Ensign United States Drilling, Inc. ("Ensign") owes me overtime pay.
2. I was employed by Ensign United States Drilling, Inc. some time after November 17, 2012 as an MWD operator.
3. I worked as an MWD operator in excess of forty hours during one or more workweeks after November 17, 2012 and was not paid overtime compensation for those hours worked in excess of forty.
4. I understand that this claim in the litigation is brought under the Fair Labor Standards Act. I hereby consent, agree and opt-in to assert claims in this litigation and be bound to any judgment by the Court or any settlement of this action.
5. I designate the Karp Neu Hanlon, P.C. law firm to represent me for all purposes in this litigation.
6. I designate the collective action representatives as my agents to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, the entering of an agreement with counsel concerning the litigation, and all other matters pertaining to this litigation.

I certify and attest that the each of the above statements is true and correct to the best of my knowledge.

Signature _____ Date signed _____

Address: _____ Home Phone _____

_____ Work Phone _____

_____ Cell Phone _____

E-mail: _____

RETURN THIS FORM TO ENSIGN NOTICE ADMINISTRATOR, C/O CLASS ACTION
ADMINISTRATION, INC., P.O. BOX 6877, BROOMFIELD, CO 80021 OR BY EMAIL TO
ENSIGNCLAIM@CLASSACTIONADMIN.COM

YOUR SIGNED "CONSENT TO JOIN" FORM MUST BE RETURNED ON OR BEFORE
JUNE 5, 2016.