

United States District Court
Southern District of Texas

ENTERED

January 10, 2018

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

**CINDY SILVA, on behalf of herself
individually, and ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

INTEC COMMUNICATIONS, LLC,

Defendant.

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CIVIL ACTION NO. 3:17-cv-00173

JOINT STIPULATION FOR CONDITIONAL CERTIFICATION AND NOTICE

Plaintiff Cindy Silva, on behalf of herself and all others similarly situated, and Defendant Intec Communications, LLC (“Intec”) (collectively “Parties”) hereby file this Stipulation Regarding Conditional Certification and Notice to Class Members and request Court approval of such stipulation by signing below in the space provided.

Under the terms of the Parties’ Stipulation, Intec will consent to this Court conditionally certifying this matter as a collective action under the FLSA, 29 U.S.C. § 216(b). The Class Members shall consist of the following:

All current and former technicians, and all employees with substantially similar duties, who worked for Intec Communications, LLC at any time from October 31, 2014 to the present.

By agreeing to this stipulation and class definition, Intec is not limiting or waiving any of its defenses, including but not limited to its right to assert that the putative class members were properly classified as exempt from overtime pay and that it is not liable for all or part of any alleged damages that Plaintiff or putative opt-in Plaintiffs claim to have incurred during this time period, that some of the putative opt-in Plaintiffs may have settled all or a portion of their claim(s) in the

case of *Walters v. Intec Communications, LLC*, Case No. 1:15-cv-02673, in the North District of Georgia, or its right to later move for decertification.

The Parties stipulate that Don Foty of Kennedy Hodges, LLP shall serve as class counsel and that Cindy Silva shall serve as the representative for the class.

The Parties stipulate that within **thirty (30) days** of the Court approving this stipulation by signing below, Intec shall provide to Plaintiff's counsel the names, dates of employment, last known home addresses, and email addresses for all Class Members as defined above. Intec will provide dates of birth, if known, for any individuals whose notices are returned as undeliverable and without a forwarding address. Intec shall provide such information in a computer-readable format, such as a Microsoft Excel Spreadsheet.

The Parties stipulate that Plaintiff's counsel shall transmit the agreed Notice of Rights and agreed Consent Form via first class mail and electronic mail to all persons contained on the list within **fourteen (14) days** of receiving the list from Intec. Plaintiff's counsel will inform Intec's counsel of the date on which the first class and electronic mailing is sent. The Class Members shall be allowed to execute either a hard copy of the consent form or an electronic copy of the Consent Form. The Parties have reached an agreement as to the form of Notice and Consent Form which are attached as Exhibit "1."

Putative opt-in plaintiffs will have sixty (60) days from the date of the first class and electronic mailing to file consents with the Court.

SIGNED on January 9, 2018.


JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE,

For the Plaintiff:

By: /s/ Don Foty
Don J. Foty
State Bar No. 24050022
4409 Montrose Blvd., Suite 200
Houston, Texas 77006
Telephone: (713) 523-0001
Facsimile: (713) 523-1116
Email: dfoty@kennedyhodes.com

For the Defendant:

By: /s/ Brett Field
Brett S. Field
State Bar No. 24050596
8750 North Central Expy, Suite 625
Dallas, Texas 75231
Telephone: (972) 458-5353
Facsimile: (972) 861-5339
Email: brett@strombergstock.com

COURT AUTHORIZED NOTICE TO POTENTIAL CLASS MEMBERS

TO: All current and former Technicians who performed work for Intec Communications, LLC at any time from October 31, 2014 to the present.

RE: Overtime lawsuit under the Fair Labor Standards Act

Cindy Silva v. Intec Communications, LLC, Civil Action No. 3:17-cv-00173, pending in the United States District Court for the Southern District of Texas, Galveston Division.

This Notice is to inform you of a collective action lawsuit alleging violations of the Fair Labor Standards Act ("FLSA"). The United States District Court for the Southern District of Texas has authorized the mailing of this notice to you to afford you the opportunity to join this lawsuit.

1. Why Are You Getting this Notice?

You are getting this notice because you worked for **Intec Communications, LLC** at some time since October 31, 2014. A lawsuit was brought against Intec alleging that you and other Technicians are owed overtime wages under federal law.

2. What is this lawsuit about?

The individual who brought this lawsuit alleges that Intec violated the federal Fair Labor Standards Act by not paying overtime wages to you for all hours worked in excess of 40 hours in a week. The lawsuit is seeking back pay and liquidated damages (double damages) from Intec, as well as costs and attorney's fees. Intec denies that it has violated the law and that it owes any of the back pay, damages, costs or attorney's fees that are sought. The Court has not yet decided whether Intec has done anything wrong or whether this case will proceed to trial. However, you have the choice to assert your legal rights in this case. You have the right to join this case even if you participated in the prior case of *Walters v. Intec Communications, LLC*, Case No. 1:15-cv-02673, in the North District of Georgia if you worked after the date the Court approved the settlement in the *Walters* case on February 15, 2017.

3. Your right to join this case

If you fit the definition above, you may join this case (that is, you may "opt-in") by completing the attached "Consent to Join Collective Action" form and returning it to Plaintiffs' Counsel by mailing it to the following address:

Don J. Foty
4409 Montrose Blvd., Suite 200
Houston, Texas 77006
Phone: (713) 523-0001
Facsimile: (713) 523-1116
dfoty@kennedyhodges.com

You may also return your form by faxing it to (713) 523-1116 or completing the form online at _____ . The form must be received by Plaintiff's Counsel by _____ (insert date 60 days after mailing). If you fail to return the Consent to Join Collective Action, you may not be able to participate in this lawsuit.

4. What are your options?

If you choose to join in this case, you will become a party to the case. You are eligible to participate in a settlement for unpaid overtime wages, if any is reached. Also, you will be bound by a judgment ultimately entered in this case, whether it is favorable or unfavorable. If you choose to join this case, you may be required to answer written questions, provide records, and you may have your testimony taken in a deposition or at trial.

If you do not wish to be a part of the lawsuit, you do not need to do anything. If you do not join this case, you will not be able to participate in any settlement regarding the claim for unpaid overtime wages, if any is reached. If you do not join the lawsuit, you will not be part of the case and will not be bound by or affected by the result, whether favorable or unfavorable. Your decision not to join this case will not affect your right to bring a similar case on your own at a future time. However, claims under the Fair Labor Standards Act must be brought within two (2) years of the date the claim accrues, unless the employer's violation of the law was "willful," in which case the claim must be brought within three (3) years. If you do not join this case, you have the right to hire your own attorney and bring a separate case, if you so choose. However, if you join this case, you will be represented by the Plaintiffs' Counsel in this case.

The attorneys for the Plaintiff are being paid on a contingency fee basis, which means that if there is no recovery there will be no attorney's fee. If there is a recovery, the attorney for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class.

5. Intec cannot and will not fire you for joining this lawsuit.

It is illegal for Intec to take any action against you for joining this lawsuit such as terminating your employment, reducing your hours, pay or benefits. If you suspect any misconduct, you may contact the Plaintiff's attorney identified above so that he may bring it to the Court's attention immediately.

6. How Can You Get More Information?

You can get more information by calling Don Foty. He can be reached at 713-523-0001.

THIS IS A COURT APPROVED NOTICE.
*****THIS IS NOT AN ADVERTISEMENT FROM A LAWYER*****

CONSENT TO JOIN COLLECTIVE ACTION

- I, _____ (print name), consent to join the lawsuit seeking damages for unpaid overtime wages under the FLSA.
 - I am similarly situated to the named Plaintiff in this matter because I performed similar duties and worked in excess of forty hours in a workweek.
 - I authorize the named Plaintiff to file and prosecute the above referenced matter in my name, and on my behalf, and designate the named Plaintiff to make decisions on my behalf concerning the litigation, including negotiating a resolution of my claims and entering into a fee agreement with Plaintiff's Counsel, and I understand I will be bound by such decisions.
 - I agree to be represented by Don Foty, counsel for the named Plaintiff.
 - If my consent form is stricken for any reason, I authorize Plaintiff's Counsel to use this consent form to file my claim in a separate or related action.
- Date: _____ Signature: _____

Information below this line will not be filed with the Court:

Information on this page will not be filed with the Court:

Start and end dates of employment: _____ to _____

Address: _____

City: _____

State: _____

Phone: _____

Alternative
Phone: _____

Email: _____

Work Locations: _____