

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

JASON GUAJARDO, Individually
And On Behalf of All Other Similarly
Situated Persons

Plaintiff,

v.

BIRD ELECTRIC ENTERPRISES, LLC,

Defendant.

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CIVIL ACTION NO. 7:18-cv-00025-DC

AGREED MOTION TO TOLL LIMITATIONS AND ISSUE SUPPLEMENTAL NOTICE

Plaintiff Jason Guajardo, individually and on behalf of all others similarly situated persons (“Plaintiff”) and Defendant Bird Electric Enterprises, LLC (“Defendant”) (collectively, the “Parties”), file this Agreed Motion to Toll Limitations and Issue Supplemental Notice. In support, they show:

1. On April 16, 2018, the Court conditionally certified a class, pursuant to a stipulation by the Parties, consisting of hourly paid electricians in Department 16 from April 10, 2015 to the present. *See* Dkts. 10, 12. Defendant recently discovered that certain Department 16 electricians working in that time period were inadvertently not disclosed. Further, in resolution of a dispute between the Parties, the Parties agree to include Department 16 foremen and general foremen in the conditionally certified class.

2. Therefore, Defendant agrees to both conditionally certify a class pursuant to 29 U.S.C. § 216(b) consisting of, and to disclose the identities and contact information of, all foremen, all general foreman, and all previously undisclosed electricians in Department 16 dating back to April 10, 2015 (the “Newly Disclosed Class Members”).

3. The Parties further agree that Plaintiff shall issue notice of this case to all Newly Disclosed Class Members in the form and by the methods described in the attached Agreed Order Approving Supplemental Notice and Tolling Limitations (the “Agreed Order”).

4. The parties further agree and stipulate that that the statute of limitations for the Newly Disclosed Class Members is equitably tolled beginning April 16, 2018 until such time that each putative plaintiff who is a Newly Disclosed Class Member files a consent to join this action as a party-plaintiff.

5. The Parties’ agreements as reflected in this Motion and the Agreed Order resolve the issues presented to the Court in Plaintiff’s Motion to Compel Compliance with Order Certifying Class. Dkt. 30. Therefore, the Parties request the Court deny Plaintiff’s Motion to Compel Compliance with Order Certifying Class as moot.

6. The Parties respectfully request that the Court enter the Agreed Order, which is filed contemporaneously with this Motion.

Date: November 5, 2018

Respectfully submitted,

/s/ Daniel A. Verrett

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BIRD ELECTRIC ENTERPRISES, LLC

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

On November 5th, 2018, the foregoing document was electronically submitted with the clerk of court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that all counsel have been served electronically or by another manner authorized by Federal rule of Civil Procedure 5 (b)(2).

/s/Daniel A. Verrett

Daniel A. Verrett