

COMMONWEALTH OF KENTUCKY
MADISON CIRCUIT COURT
DIVISION NO. 2
CIVIL ACTION NO.: 18-CI-00294
ELECTRONICALLY FILED

RONALD D. HELD, JR., AND CAROL LEAR, on behalf of themselves
and all other persons similarly situated,

PLAINTIFFS

v.

**NOTICE OF PENDENCY OF CLASS
ACTION**

HITACHI AUTOMOTIVE SYSTEMS AMERICAS, INC.,

DEFENDANT

** ** * ** * ** * ** * ** * ** * ** * ** *

If you were employed by Hitachi Automotive Systems Americas as a supervisor in Hitachi's Berea, Kentucky or Berea Motors North manufacturing facilities at any time between April 24, 2012 and the present, this class action lawsuit may affect your rights.

The Madison Circuit Court authorized this notice. This is not a solicitation from a lawyer.

- A current supervisor and a former supervisor sued Hitachi Automotive Systems Americas alleging that Hitachi illegally failed to pay its supervisors an overtime premium for hours worked over 40 each workweek.
- The Court has certified this lawsuit as a class action on behalf of supervisors who have worked at Hitachi's Berea, Kentucky or Berea Motors North manufacturing facilities since April 24, 2012 (the "Supervisors").
- The Court has not decided whether Hitachi did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	Stay in this Lawsuit. Await the outcome. Give up certain rights. By doing nothing, you keep the possibility of getting money or benefits that may come from a trial or settlement. But, you give up any rights to sue Hitachi separately about the same legal claims.

ASK TO BE EXCLUDED	<p>Get out of this Lawsuit. Get no benefits from it. Keep rights.</p> <p>If you asked to be excluded and money or benefits are later awarded, you won't share in those. But you keep any rights to sue Hitachi separately about the same legal claims in this lawsuit.</p>
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- Your options are explained in this notice. To ask to be excluded, you must act before **December 24, 2020.**
- If money or benefits are obtained from Hitachi and you choose to remain a part of this class, you will be notified about how to ask for a share.
- **To participate in this case you do not need to do anything.**

1. Why did I get this notice?

Hitachi's records show that you currently work, or previously worked, for Hitachi as a supervisor. This notice explains that the Court has allowed, or "certified," a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. This lawsuit is to decide whether the claims being made against Hitachi, on your behalf, are correct. Judge Jean C. Logue of the Kentucky Circuit Court, Madison County, is overseeing this class action. The lawsuit is known as *Held, et al. v. Hitachi Automotive Systems Americas, Inc.*, Case No. 18-CI-00294.

2. What is this lawsuit about?

This lawsuit is about whether Hitachi illegally failed to pay an overtime premium to its supervisors at its Berea, Kentucky and Berea Motors North manufacturing facilities when those supervisors worked more than forty (40) hours per workweek.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” (in this case Ronald D. Held, Jr. and Carol Lear) sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” The supervisors who sued—and all the Class Members like them—are called the Plaintiffs. The organization they sued (in this case Hitachi) is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit can move forward as a class action because it meets the requirements of Kentucky Rule of Civil Procedure 23, which governs class actions in Kentucky courts. Specifically, the Court found that:

- Hitachi has employed more than 150 supervisors between April 24, 2012 and the present;
- There are legal questions and facts that are common to each of them;
- Mr. Held and Ms. Lear’s claims are typical of the claims of the rest of the Class;
- Mr. Held and Ms. Lear and the lawyers representing the Class will fairly and adequately represent the Class’s interests;
- The common legal questions and facts are more important than questions that affect only individuals; and
- This class action will be more efficient than having many individual lawsuits.

5. What does the lawsuit complain about?

In this lawsuit, the Plaintiffs say that Hitachi has been violating the Kentucky Wages and Hours Act by not paying an overtime premium to supervisors when they work more than forty (40) hours per week.

Plaintiffs claim that they and other Hitachi supervisors were paid on an hourly basis and, therefore, are owed overtime under the Kentucky Wages and Hours Act. Hitachi contends that it pays Plaintiffs and its other supervisors based on a salary, plus an extra amount by the hour. Plaintiffs maintain that, even if it is determined that they are paid on a salary basis, they and the supervisors they represent are still owed overtime pay because from April 24, 2012 through June 13, 2016 their extra hourly pay was not reasonably related to the guaranteed minimum amount (or the salary) that they are paid.

To address these two legal claims, the Court has divided the Class into two Sub-classes. The first subclass consists of all Supervisors who worked for Hitachi from April 24, 2012 to the present. Plaintiffs contend that all of these Supervisors are owed overtime paid because they were paid on

an hourly basis and, therefore, should have paid an overtime premium of time-and-a-half of their regular hourly rate for all hours over 40 in each work week.

Plaintiffs claim, alternatively, that if it is determined that they were paid on a salary basis, then Supervisors who worked for Hitachi from April 24, 2012 through June 13, 2016 should be paid overtime because the amount of extra pay that these Supervisors were paid resulted in their total compensation not being reasonably related to their guaranteed salary. The Court certified a second subclass of all Supervisors who worked for Hitachi from April 24, 2012 through June 13, 2016 for this claim. This claim will only be addressed if it is determined that Supervisors were paid on a salary basis.

You can read Plaintiffs' Class Action Complaint at:
www.barrettjohnston.com/HitachiClassNotice

6. How does Hitachi answer?

Hitachi denies liability and contends that its supervisors are exempt from the overtime pay requirements of the Kentucky Wages and Hours Act. You can read Hitachi's Answer to the Class Action Complaint at www.barrettjohnston.com/HitachiClassNotice.

7. Has the Court decided who is right?

The Court has not decided whether Plaintiffs or Defendant are correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case. The Plaintiffs must prove their claims to the Court. (See "The Trial" below on page 7).

8. What are Plaintiffs asking for?

The Plaintiffs are seeking money damages for lost/underpaid overtime wages for past and current employees for all periods dating back to April 24, 2012.

9. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Hitachi did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will be obtained. If they are, you will be notified about how to ask for a share.

10. Am I part of this Class?

Judge Logue decided that all supervisors employed by Hitachi at its Berea, Kentucky and Berea Motors North manufacturing facilities at any time from April 24, 2012 through the present, except those who were paid only as non-exempt with overtime compensation or only with a salary without extra compensation, are Class Members.

11. Which current and former employees are included?

All current and former supervisors described in No. 10 above are in the Class as long as they were employed by Hitachi at the Berea, Kentucky or Berea Motors North manufacturing facilities at any time from April 24, 2012, through the present.

12. Are any supervisors who worked for Hitachi not included in the Class?

Yes. If you worked for Hitachi at any manufacturing facility other than its Berea, Kentucky and Berea Motors North facilities, if you were paid only as a non-exempt employee with overtime compensation as a supervisor, or if you were paid only a salary without extra compensation as a supervisor, you are NOT a Class Member.

14. What happens if I do nothing at all?

You do not have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit. By doing nothing you are staying in the Class. If you stay in and the

Plaintiffs obtain money or benefits, either as a result of trial or a settlement, you will be notified about how to apply for a share (or how to ask to be excluded from any settlement). Keep in mind that if you do nothing now, regardless of whether the Plaintiffs win or lose the trial, you will not be able to sue, or continue to sue, Hitachi—as part of any other lawsuit—about the same legal claims that are the subject of this lawsuit. This means that you will be legally bound by all of the Orders the Court issues and Judgments the Court makes in this class action.

15. Why would I ask to be excluded?

You may request to be excluded from the Class if you do not want to be part of it for any reason. If you exclude yourself from the Class—which also means to remove yourself from the Class, and is sometimes called “opting-out” of the Class—you will not get any money or benefits from this lawsuit even if Plaintiffs obtain them as a result of a trial or from any settlement (that may or may not be reached) between Plaintiffs and Hitachi. However, you may then be able to sue or continue to sue Hitachi for underpaying you at any point after April 24, 2012. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action.

Additionally, if you already have your own lawsuit against Hitachi for not paying you an overtime premium for hours worked over forty per workweek and you want to continue with it, you need to ask to be excluded from the Class. If you start your own lawsuit against Hitachi after you exclude yourself, you’ll have to hire and pay for your own lawyer for that lawsuit, and you’ll have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Hitachi, you should talk to your own lawyer soon, because your claims are subject to a statute of limitations.

16. How do I ask the Court to exclude me from the Class?

To ask to be excluded, you must send an “Exclusion Request” in the form of a letter sent by mail, stating that you want to be excluded from *Held v. Hitachi Automotive Systems Americas, Inc.* Be sure to include your name and address, and sign the letter. You must mail your Exclusion Request postmarked by December 24, 2020, to: Held v. Hitachi Exclusions, Barrett Johnston Martin & Garrison, LLC, 414 Union Street, Suite 900, Nashville TN, 37219. You may also use the Exclusion Request form attached to this Notice or may download the form at the website www.barrettjohnston.com/HitachiClassNotice or call Barrett Johnston at 615-244-2202 to request one.

17. Do I have a lawyer in this case?

The Court decided that the law firms of Barrett Johnston Martin & Garrison, LLC, in Nashville, Tennessee, Garmer & Prather, PLLC in Lexington, Kentucky, and Chris Sanders Law, PLLC in Louisville, Kentucky are qualified to represent you and all Class Members. The law firms are called “Class Counsel” in this case. The firms are experienced in handling similar cases against other employers.

18. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

19. How will the lawyers be paid?

If Class Counsel gets money or benefits for the Class, it may ask the Court for fees and expenses. You won't have to pay these fees and expenses. If the Court grants Class Counsels' request, the fees and expenses will either be deducted from any money obtained for the Class or paid separately by Hitachi.

20. How and when will the Court decide who is right?

If the case is not resolved by a settlement, Class Counsel will have to prove the Plaintiffs' claims at trial. The trial will be held in the Circuit Court of Kentucky in Madison County, located at 101 W Main St, Richmond, KY 40475. During the trial, a Jury or the Judge will hear all of the evidence to help them to reach a decision about whether the Plaintiffs or Defendant are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win, or that they will get any money for the Class.

21. Do I have to come to the trial?

You are not required to attend the trial simply because you choose to remain a Class Member. Class Counsel will present the case for the Plaintiffs, and Hitachi will present the defenses. If either Class Counsel or Hitachi believe that your testimony is important to the case, you may be asked to attend trial as a witness. If you are not asked to appear as a witness, you or your own lawyer are still welcome to come at your own expense.

22. Will I get money after the trial

If the Plaintiffs obtain money or benefits as a result of the trial or settlement, you will be notified about how to participate. We do not know how long this will take.

23. Are more details available?

Visit the website, www.barrettjohnston.com/HitachiClassNotice, where you will find the Court's Order Certifying the Class, the Complaint that the Plaintiffs submitted, the Defendant's Answer to the Complaint, as well as an Exclusion request form.

You may also submit questions to the Class Counsel via e-mail, by using the "contact us" option on the website, or by contacting Barrett Johnston Martin & Garrison, LLC via telephone at 615-244-2202.