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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

EMY JOHNSTON, on behalf of herself,
and all others similarly situated, and as an
“aggrieved employee” on behalf of other
“aggrieved employees” under the Labor
Code Private Attorneys General Act of
2004,

Plaintiff(s),

vs.

HERTZ LOCAL EDITION CORP., a
Delaware corporation; and DOES 1 through
50, inclusive,

Defendant(s).

Case No.: 2:17-cv-01966-JAM-EFB

**[PROPOSED] ORDER
GRANTING STIPULATION RE
DISCOVERY OF PUTATIVE
CLASS MEMBER IDENTITIES
AND CONTACT INFORMATION**

Hon. Edmund F. Brennan
U.S. Magistrate Judge
Courtroom 8



1 WHEREAS, in this lawsuit, Emy Johnston, on behalf of herself and others
2 similarly situated and the allegedly aggrieved employees under the Labor Code
3 Private Attorneys General Act of 2004, seeks unpaid overtime wages and other
4 relief against Defendant Hertz Local Edition Corp. (“Defendant” or “Hertz”) for
5 alleged violations of the California Labor Code and other unlawful business
6 practices alleged in the complaint.

7 WHEREAS, Plaintiff has requested that Defendant identify all of its more
8 than 300 salaried Branch Managers and District Managers employed in California
9 during the relevant time period of August 10, 2013 to the present (the “Putative
10 Class Members”).

11 WHEREAS, the parties recognize that the putative class members enjoy the
12 privacy protections of Article I, Section I of the California Constitution and
13 privacy rights under the U.S. Constitution.

14 WHEREAS, the parties met and conferred about the information sought and
15 agreed to a method balancing Plaintiff’s need for the information and the privacy
16 rights of Defendant’s employees.

17 GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED
18 AS FOLLOWS:

19 1. Phoenix Settlement Administrators (“the Administrator”), a third-
20 party administrator, shall mail the notice letter attached as Exhibit “A” to all of the
21 Putative Class Members. Defendant will provide to the Administrator a list in
22 *Microsoft Excel* or comparable format stating the full names, last known
23 addresses, and last known telephone numbers of the Putative Class Members (to
24 the extent available from Defendant’s personnel records and other sources) within
25 ten (10) business days of the Court’s order on this stipulation.

26 2. If a Putative Class Member does not want his/her full name, address,
27 e-mail addresses, or telephone number to be provided to Plaintiff, he/she must (1)
28 sign and return a postcard substantially the same as that attached as Exhibit “B” or

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Putative Class Member Identities and Contact
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1 (2) respond by e-mail with the information contained in Exhibit B to the
2 Administrator within thirty (30) calendar days after the mailing of Exhibit "A."

3 3. Fifty (50) days after mailing Exhibit "A," the Administrator shall
4 provide Plaintiff with a list in *Microsoft Excel* or comparable format stating the
5 full names, addresses, e-mail addresses, and telephone numbers of all the Putative
6 Class Members who did not sign and return the postcard attached as Exhibit "B"
7 or respond by e-mail. The Administrator shall provide Defendant with a list of the
8 Putative Class Members who signed and returned the postcard or opted-out by e-
9 mail.

10 4. Plaintiff shall keep any information discovered by this process
11 confidential, shall use such information only for purposes of this litigation, and
12 shall return the information to Defendant or certify its destruction (including all
13 copies) at the end of this litigation.

14 5. Plaintiff will bear the costs of the Administrator for the performance
15 of its duties described above.

16 IT IS SO ORDERED.

17
18 DATED: April 20, 2018.



19 HON. EDMUND F. BRENNAN
20 United States Magistrate Judge



EXHIBIT A

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IMPORTANT NOTICE REGARDING
YOUR PERSONAL CONTACT INFORMATION

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Emy Johnston (“Plaintiff”) has filed a class action lawsuit against her former employer, Hertz Local Edition Corp. (“Defendant” or “Hertz”) on behalf of all employees Defendant characterizes as salaried Branch Managers and District Managers in California. Unless you take action described below, your personal contact information will be disclosed to Plaintiff’s attorneys so they may contact you.

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Who is receiving this notice?

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This notice is being sent to individuals currently or previously employed in California by Defendant from August 10, 2013 to the present as salaried Branch Managers or District Managers.

What is the case about?

A lawsuit has been filed by Plaintiff Emy Johnston on behalf of herself and allegedly on behalf of other similarly situated employees of Defendant. The lawsuit is entitled *Emy Johnston, et al. v. Hertz Local Edition Corp.*, Case No. 2:17-cv-01966-JAM-EFB. It is not against you, and you are not being sued. Emy Johnston (the “Plaintiff”) claims Hertz, among other things, failed to pay its Branch Managers and District Managers overtime wages, failed to reimburse them for business expenses, and, to the extent they were misclassified, failed to provide them with meal and rest breaks. If you are a current or former salaried Branch Manager or District Manager, you may be a member of the proposed class in the lawsuit. The Court has not yet determined whether or not the lawsuit should be allowed to proceed as a class action. Defendant denies all the claims being made, and the Court has made no determinations about the merits of the claims. It is Defendant’s position that it has compensated and reimbursed all of its salaried managers properly.

Why am I receiving this notice?

Plaintiff’s attorneys would like to have your name, address, e-mail address, and telephone number so they may contact you regarding Plaintiff’s allegations in the lawsuit. You have the right to have Hertz not provide your name and contact information to Plaintiff’s attorneys on the grounds of privacy. The parties’ attorneys have agreed to send this notice to you so that you can decide whether you want your name and contact information disclosed to Plaintiff’s attorneys.



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1 **How do I exclude myself from discovery and prevent my name and personal**
2 **contact information from being disclosed to Plaintiff's attorneys?**

3 If you do not want your personal contact information disclosed to Plaintiff's
4 attorneys, you must do one of the following by thirty (30) days from mailing:

- 5 1. **Sign and return** the enclosed pre-paid postcard to Emy Johnston, et al.
6 v. Hertz Local Edition Corp., c/o [_____, and mailing
7 address]; **or**
8 2. **Send an email** to _____ (the Administrator) at
9 _____ .com that states that you do not want your personal
10 contact information shared with Plaintiff's attorneys.

11 **What are my rights?**

12 It is your right to withhold your name and contact information from Plaintiff's
13 attorneys on the grounds of privacy by taking one of the actions noted above.
14 Your decision to withhold your name and contact information at this time will
15 have no impact on any right you may have to participate in this case in the event it
16 is later certified as a class action. Although you are not required to take any action
17 or contact anyone, you have the right to contact Plaintiff's attorneys or
18 Defendant's attorneys directly:

19 Plaintiff's Attorneys

20 David Spivak (SBN 179684)
21 david@MyWorkMyWages.com
22 The Spivak Law Firm
23 16530 Ventura Blvd., Suite 312
24 Encino, California 91436
25 Toll Free: (877) 203-9010
26 Facsimile: (818) 582-2561

27 Defendant's Attorneys

28 Robert A. Dolinko (State Bar No. 076256)
rdolinko@nixonpeabody.com
Daniel G. Valles (State Bar No. 269137)
dvalles@nixonpeabody.com
Nixon Peabody LLP
One Embarcadero, Suite 1800 6

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San Francisco, California 94111
Telephone: (415) 984-8200
Facsimile: (415) 984-8300

Please do not contact the Court with inquiries. The Court does not endorse any of the statements contained in this notice. The Court has not made any decisions as to the merits of this case.



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EXHIBIT B

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Discovery Exclusion Form

Name:
Address:
Phone number:
Email address:

I do not want my personal contact information disclosed to Plaintiff's attorneys in the above-referenced case.

Signature

RETURN THIS FORM TO:
EMY JOHNSTON, ET AL. V. HERTZ LOCAL EDITION CORP.
ADMINISTRATOR
c/o [Administrator Name]
[Mailing Address]

THIS FORM MUST BE RECEIVED BY _____, 2018

