

1 EDUARDO G. ROY (Bar No. 146316)
 2 JOHN R. HURLEY (Bar no. 203641)
 3 PROMETHEUS PARTNERS L.L.P.
 220 Montgomery Street Suite 1094
 San Francisco, CA 94104
 Telephone: 415.527.0255

4 Attorneys for Plaintiffs
 5 MICHAEL DEATRICK, et al.

6 SHERRY B. SHAVIT, ESQ.; STATE BAR NO.: 193222
 E-mail: sshavit@tharpe-howell.com
 7 STUART E. COHEN, ESQ.; STATE BAR NO.: 213810
 E-mail: scohen@tharpe-howell.com
 8 THARPE & HOWELL, LLP
 15250 Ventura Blvd., Ninth Floor
 9 Sherman Oaks, California 91403
 Tel: (818) 205-9955
 10 Fax: (818) 205-9944

11 J. KEVIN LILLY, ESQ.; STATE BAR NO.: 119981
 E-mail: klilly@littler.com
 12 LITTLER MENDELSON PC
 2049 Century Park East, 5th Floor
 13 Los Angeles, CA 90067
 Tel: (310) 553-0308
 14 Fax: (310) 553-5583

15 Attorneys for Defendant,
 16 SECURITAS SECURITY SERVICES USA, INC.

17 **UNITED STATES DISTRICT COURT**
 18 **NORTHERN DISTRICT OF CALIFORNIA**

19 MICHAEL DEATRICK, individually and on
 20 behalf of all others similarly situated, and as
 representative of the State of California, et al.,

21 Plaintiffs,

22 v.

23 SECURITAS SECURITY SERVICES USA,
 24 INC.,

25 Defendant.

Case No.: 3:13-cv-5016 JST

STIPULATION AND ~~PROPOSED~~
ORDER FOR APPROVAL OF REVISED
CLASS NOTICE AND MAILING DATE

1 Plaintiff Michael Deatrick, individually and as representative of the conditionally-certified
2 settlement class, the FLSA opt-in plaintiffs and Defendant Securitas Security Services USA, Inc.
3 (“Defendant”) hereby stipulate and request that the Court approve a revision to the Class Notice
4 approved by the Court in its ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF
5 AMENDED SETTLEMENT [“Preliminary Approval Order”] (ECF No. 161). Although the Parties do
6 not believe that the proposed revision is material, it does reflect a change to the Class Notice approved
7 by the Court, and the proposed change necessitates a different mailing date. The Parties therefore jointly
8 request approval of a revised Class Notice and mailing date for the reasons set forth herein.

9 **Reasons for the Requested Relief**

10 1. In bring his Motion for Conditional Class Certification and Preliminary Approval of
11 Settlement (ECF No. 152) and Motion for Preliminary Approval of Amended Settlement and
12 Modification of End-Date of Settlement Class (ECF No. 156), Plaintiff represented that 11,267 persons
13 (in addition to those California employees who had already opted in) would be included in the
14 conditionally-certified California Class. *See, e.g.*, Declaration of John R. Hurley (ECF 156-5 at ¶ 20.
15 Based on this figure and the number of persons who had already opted in to the FLSA collective action,
16 it was anticipated that the settlement would provide payment to a total of 35,548 persons.

17 2. Based on the sum of \$1,385,000 allocated to individual settlement awards under the
18 proposed settlement, the average pretax payment to class members would be approximately \$38.96.
19 Pursuant to the Preliminary Approval Order, this figure would be disclosed in the Class Notice. (ECF
20 161 at p. 10:2-6; ECF 156-2 at p. 2 § 4.)

21 3. Upon issuance of the Preliminary Approval Order, Defendant Securitas USA worked
22 diligently to generate and provide a class list to the settlement administrator as required by the Court’s
23 Order, and provided an initial class list to the settlement administrator on April 28, 2016.

24 4. Based on the number of persons on the initial class list, Plaintiffs’ counsel raised
25 concerns regarding the methodology used to generate the list. The Parties met and conferred repeatedly
26 regarding those concerns in order to ensure that the class list properly encompassed the conditionally-
27 certified California settlement class. These efforts resulted in two further iterations of the class list.

28 5. The Parties are in agreement that the third and final iteration of the class list properly

1 encompasses the conditionally-certified California Class. This final list was provided to the settlement
2 administrator on May 10, 2016.

3 6. Based on the final class list, notice would be sent to a slightly higher number of persons
4 than originally anticipated. Specifically, the FLSA collective action and the California Class would
5 together encompass 36,092 unique persons rather than the 35,548 persons previously anticipated. Based
6 on this figure, the average pre-tax settlement share would be approximately \$38.37 rather than the figure
7 of \$38.96 previously anticipated.

8 7. The Parties, and specifically Plaintiff and his counsel, believe that this \$0.59 decrease in
9 the average settlement amount is not material and that the average settlement amount remains reasonable
10 under the circumstances.

11 8. Further, because of the time required to meet and confer and generate multiple iterations
12 of the class list, the settlement administrator was unable to send Class Notice by May 7, 2016, which
13 was the date by which Class Notice should have been sent pursuant to the Preliminary Approval Order.
14 The settlement administrator has advised the Parties that Class Notice can be sent by the new requested
15 date of May 20, 2016.

16 **Effect on Final Approval**

17 The Court has scheduled a hearing date of September 22, 2016, for final approval. The new
18 requested notice date would not require any continuance of that date.

19 **STIPULATION**

20 Based on the matters set forth above, THE PARTIES HEREBY STIPULATE AND REQUEST,
21 by and through their respective counsel, as follows:

- 22 • That the Court modify the date for mailing of Class Notice set pursuant to its
23 Preliminary Approval Order such that Class Notice shall be mailed on or before May
24 20, 2016; and
- 25 • That the Court approve the mailing of a form of Class Notice which changes the
26 estimated average settlement amount from the \$38.96 figure in the previously-
27 approved form of notice (ECF 156-2 at p. 2 § 4) to \$38.37.

28 Pursuant to Local Rule 5-1(i)(3), the undersigned filer of this document hereby attests that

1 concurrence in the filing has been obtained from each of the other signatories, which shall serve in lieu
2 of their signatures on the document.

3 IT IS SO STIPULATED.

4 Dated: May 12, 2016

LITTLER MENDELSON PC
J. KEVIN LILLY

6 THARPE & HOWELL, LLP

7 By: /s/ Sherry B. Shavit
8 SHERRY B. SHAVIT
9 Attorneys for Defendant,
SECURITAS SECURITY SERVICES USA,
INC.


10 Dated: May 12, 2016

PROMETHEUS PARTNERS L.L.P.

12 By: /s/ John R. Hurley
13 JOHN R. HURLEY
14 Attorneys for Plaintiffs,
MICHAEL DEATRICK, et al.

18 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21 DATED: May 18, 2016

22 
23 JON. JON S. TICAR
24 United States District Court Judge