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

MICHAEL DEATRICK, individually and on behalf of all others similarly situated,

Plaintiff,

v.

SECURITAS SECURITY SERVICES USA, INC.,

Defendant.

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

**ORDER GRANTING MOTION FOR
CONDITIONAL CERTIFICATION OF
COLLECTIVE ACTION AND
APPROVING ISSUANCE OF NOTICE**

Plaintiff Michael Deatrick’s (“Plaintiff”) Motion for Certification of FLSA Collective Action and Issuance of Notice (hereinafter “FLSA Certification Motion”), pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), and Hoffmann-La Roche Inc. v. Sperling, 493 U.S. 165 (1989), came on for hearing on September 18, 2014, in the United States District Court for the Northern District of California, the Honorable Jon S. Tigar presiding. All parties were represented by counsel.

By Order dated September 18, 2014, (ECF 57) issued upon the same day as the hearing, the Court ordered Plaintiff and Defendant Securitas Security Services, USA Inc. (“Securitas USA”), to meet and confer regarding the class definition, form of Notice, and scheduling. The Parties submitted a joint Proposed Order embodying agreement on all issues except for one sentence in the mailed Notice to be sent to potential opt-in plaintiffs. The Parties made separate submissions regarding that difference in positions.

Having considered the papers filed by the parties, oral argument of counsel, and the relevant statutory and case law, and as set forth in the September 18, 2014 Order, the Court GRANTS Plaintiff’s FLSA Certification Motion and finds and ORDERS as follows:

- 1. Pursuant to the FLSA and cases interpreting it, the Court finds that Plaintiff is similarly

1 situated to other former and current employees of Securitas USA. The Court therefore conditionally
2 certifies this action as a representative collective action under 29 U.S.C. § 216(b).

3 2. The Court defines the preliminarily certified FLSA opt-in class as follows:

4 All persons throughout the United States, including its territories and possessions:

- 5 1. who are or were security employees of Securitas Security Services
6 USA, Inc.;
- 7 2. who received annual lump-sum vacation pay upon an anniversary of
8 employment since October 28, 2010; and
- 9 3. who were required to be employed on their anniversaries of
10 employment to receive vacation pay.

11 Attorneys for the parties, any Judge to whom this case is assigned, and
12 their respective staffs and immediate families are excluded from the class.

13 3. The Court approves Plaintiff's proposed form of mailed Notice, and orders the mailing of
14 Notice substantially in the form attached hereto as Exhibit 1.

15 4. The Court approves the mailing of the Consent to Join form substantially in the form
16 attached hereto as Exhibit 2.

17 5. The Court approves the Bulletin Board/Workplace Notice substantially in the form
18 attached hereto as Exhibit 3.

19 6. The Court approves the mailing of a Reminder Postcard substantially in the form attached
20 hereto as Exhibit 4.

21 7. Within 14 days of the date of this Order, Securitas USA shall provide to Rust Consulting,
22 Inc. ("Rust"), in Microsoft Excel or comparable electronic format, a class list including the names, all
23 known addresses, and all known telephone numbers of all security officers known as of the date of this
24 Order who have received lump-sum vacation pay at any time since October 28, 2010, and who were
25 required to be employed on their anniversaries of employment to receive such vacation pay. Plaintiff is
26 authorized to retain Rust Consulting, Inc., as Notice Administrator to carry out the notice plan set forth
27 in this Order. The Class List shall be provided directly to the Notice Administrator. The Notice
28 Administrator shall provide contact information to Plaintiff and his counsel for those persons who

1 complete opt-in Consent Forms. The Notice Administrator will otherwise maintain the class list in
2 confidence and shall not share it with Plaintiff's counsel or any other party without further order of the
3 Court.

4 8. Within 14 days of receiving the class list, Rust shall mail to all persons on the class list
5 the approved Notice and a Consent to Join.

6 9. Prior to mailing, Rust shall verify and update the address information through the
7 National Change of Address database. For any mailed Notices that are returned by the U.S. Postal
8 Services as undeliverable as addressed, Rust will perform an address trace process in order to obtain a
9 more current mailing address. For any records where the address trace produces a potentially more
10 current mailing address, Rust will print and mail a Notice and Consent to Join to the new address.

11 10. Prior to mailing the initial Notice, Rust shall create and maintain a website that contains
12 printer-friendly versions of the Notice and Consent to Join, the pleadings and certification rulings, and
13 contact information for Rust and counsel. The website will also allow for Consent to Join forms to be
14 completed online.

15 11. In order for consent forms to be valid and for class members to opt-in to the case,
16 Consent to Join forms must be postmarked or completed online within 90 days from the date on which
17 Rust mails the initial Notice (the Response Deadline). If this date falls on a Sunday or a postal holiday,
18 the Response Deadline shall be the next day after the 90th that is not a Sunday or postal holiday.

19 12. Prior to the Response Deadline, Rust shall send the approved Reminder Postcard to all
20 persons on the class list who have not yet responded.

21 13. From the date 14 days after providing the class list to Rust and through the response
22 deadline, Securitas USA shall cause the Bulletin Board/Workplace Notice to be posted at Securitas USA
23 branch office locations, i.e. business locations under Securitas USA's control, on the bulletin boards (or
24 other such similar location) used for posting information required by the U.S. Department of Labor
25 and/or other federal or state authorities. Securitas USA is not required to post in workplaces controlled
26 by clients or other third parties.

27 14. The parties shall participate in mediation within 45 days of the Response Deadline.

28 15. The further case management conference currently set for November 19, 2014, at 2:00


1 p.m. is hereby vacated.

2 16. The Court sets a further Case Management Conference for April 15, 2015, at 2:00 p.m.

3 A joint case management statement shall be filed ten court days prior.

4 IT IS SO ORDERED.

5 DATED: November 4, 2014

6 
7 JON S. TIGAR
8 United States District Court Judge

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EXHIBIT 1

Date

Name

Address

City, ST 00000

Dear XX:

You have received this Notice because records show that you worked as a security employee for Securitas Security Services USA, Inc. (“Securitas USA”), and you may have received annual lump-sum vacation pay upon an anniversary of your employment.

You may be eligible to take part in a lawsuit claiming that Securitas USA should have included annual lump-sum vacation pay in determining the rate used to calculate overtime wages, and that it underpaid its employees as a result.

In order to participate in the lawsuit, you must sign and return the enclosed Consent to Join form postmarked by <date>. You may also complete the form online at <url>.

Please read the enclosed Notice carefully. If you have further questions:

- Visit <url>
- Call 1-800-xxx-xxxx
- Email <address>

Sincerely,

XXX

COURT AUTHORIZED NOTICE

United States District Court for the Northern District of California

If you were employed as a security employee by Securitas Security Services USA, Inc. and received annual lump-sum vacation pay upon an employment anniversary since October 28, 2010, please read this notice.

A collective action lawsuit may affect your legal rights.

This is a court-authorized notice. This is not a solicitation from a lawyer.

- A former security officer has filed a lawsuit against Securitas Security Services USA, Inc. (“Securitas USA”). The Plaintiff claims that vacation pay paid in a lump-sum annually upon an anniversary of employment is actually a bonus, and that Securitas USA should have counted that bonus in determining the rate used to calculate overtime pay.
- The lawsuit is proceeding as a collective action on behalf of the following class of Securitas USA employees:

All persons throughout the United States, including its territories and possessions:

1. who are or were security employees of Securitas Security Services USA, Inc.;
2. who received annual lump-sum vacation pay upon an anniversary of employment since October 28, 2010; and
3. who were required to be employed on their anniversaries of employment to receive vacation pay.

Attorneys for the parties, any Judge to whom this case is assigned, and their respective staffs and immediate families are excluded from the class.

- The Court has not decided who is right and who is wrong.
- Your legal rights may be affected. If you wish to participate in the lawsuit you must respond to this Notice.

Questions? Contact the Administrator at XXX-XXX-XXXX.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
ASK TO BE INCLUDED	If you choose to be included in this lawsuit, you keep the possibility of getting money or benefits that may come from a trial or a settlement, but you give up any rights to separately sue Securitas USA about the same legal claims in this lawsuit. If money or benefits are obtained from Securitas USA, and you choose to be included in the case, you will be notified about how to obtain a share. <u>If you wish to be included, you must submit the form included with this Notice by <date>. The form can also be completed and submitted online at <url>.</u>
DO NOTHING	By doing nothing, you will not be included in this lawsuit. You will give up the possibility of getting money or benefits that may come from a trial or settlement if the lawsuit is successful. You keep any right to sue Securitas USA separately about the legal claims in this lawsuit, but this right will expire as time passes. You may choose not to sue Securitas USA at all.

This Notice contains information that affects your rights. Please read it carefully.

1. Why did I get this notice?

You are getting this notice because records show that you may have received annual lump-sum vacation pay upon reaching an employment anniversary while working for Securitas USA as a security employee. A lawsuit has been brought against Securitas USA claiming that this vacation pay should have been counted in determining the rate used to calculate overtime pay. The lawsuit is known as Michael Deatrick v. Securitas Security Systems USA, Inc., United States District Court for the Northern District of California, case no. 3:13-cv-5016 JST.

A court has conditionally certified this case as a collective action, which means that you have the right to join the lawsuit. The Court has ordered Notice to explain what the lawsuit is about, so that you can decide whether to join. The Court has not decided the merits of the case.

2. What is this lawsuit about?

This lawsuit is about whether Securitas USA should have included annual lump-sum vacation pay paid upon an employee’s anniversary of employment in determining the rate used to calculate overtime pay.

3. What is the Plaintiff asking for?

The Plaintiff is seeking to recover underpaid overtime wages from Securitas USA and to change the company’s practices. Plaintiff is also seeking recovery of attorneys’ fees and costs.

Questions? Contact the Administrator at XXX-XXX-XXXX.

DO NOT CONTACT THE COURT

Notice of Collective Action Certification – Deatrick v. Securitas Security Systems USA, Inc.,
United States District Court for the Northern District of California, case no. 3:13-cv-5016 JST

4. What happens if I join the lawsuit?

If you choose to join this lawsuit, you will be represented by the Plaintiff and his lawyers, who will make decisions and agreements on your behalf about the lawsuit. If the Plaintiff recovers money from Securitas USA, you will be able to receive a share. But if the Plaintiff doesn't win, you will be bound by the result and will not be able to separately sue on the issues in this case.

5. How do I join the lawsuit?

Enclosed is a form called "Consent to Join." **To join this lawsuit, you must read, sign and return the Consent to Join Form.** An addressed and postage-paid envelope is enclosed. If the envelope is lost or misplaced, the Consent to Join Form must be sent to:

**Securitas Lawsuit Administrator
c/o Rust Consulting
P.O. Box XXXX
Faribault, MN 55021-9096**

The signed Consent to Join form must be postmarked by <date>. If your signed Consent to Join Form is not postmarked by <date>, you will not participate in this lawsuit, you will not share in any recovery, and you will not be bound by any settlement or judgment.

You can also join by filling in the online form at <url> on or before <date>.

6. What happens if I do nothing?

If you do nothing, you will not be affected by the outcome in this case, favorable or unfavorable. You will not be entitled to share any amounts recovered by Plaintiff as part of this lawsuit. You will be free to hire your own lawyer and file your own lawsuit.

Federal wage-and-hour claims are limited by a two or three-year statute of limitations. Any delay in joining this case or filing your own case may cause your claims to expire.

7. What is Securitas USA's position?

Securitas USA denies any and all liability, and maintains that the vacation benefits paid to its security employees constitute vacation pay, and therefore it acted properly in excluding vacation pay from determining the rate used to calculate overtime pay.

8. Has the Court decided who is right?

The Court has not ruled on the merits of Plaintiff's claims, and there is no guarantee of recovery.

9. Who can join this lawsuit?

To be eligible to join this lawsuit:

1. You must be a current or former employee of Securitas Security Services USA, Inc.;
2. You must have received annual lump-sum vacation pay upon an anniversary of employment since October 28, 2010; and
3. You must have been required to be employed on your anniversary of employment to receive vacation pay.

If you work for or are related to the Judge or attorneys on the case, you may not join the lawsuit.

10. What if this Notice wasn't sent to me?

This Notice was sent to the last known address of eligible employees, but it may not have reached everyone. If you are eligible, you can join the lawsuit even if you didn't receive Notice directly.

11. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help by calling or writing the lawyers in this case or the notice administrator at the phone numbers or addresses listed in this Notice. **Do not contact the Court.**

12. What if I signed a contract not to sue?

You are allowed to join even if you signed a contract (a severance agreement, arbitration agreement, release, or other document) that contains a promise not to sue Securitas USA or to participate in a class, collective or representative action. However, you may be excluded from the lawsuit at a future date.

13. What happens next?

You have until <date> to opt into the lawsuit. After that date, you will not be allowed to opt in. Then the lawsuit will proceed toward trial, which could take months or years.

14. Can Securitas and/or my current employer retaliate against me if I join the lawsuit?

Securitas USA has a zero-tolerance policy for retaliation. In addition, it is a violation of federal law for Securitas USA or any of its related entities to fire, discipline, discriminate or retaliate against you for taking part in this case. If you believe that you have been penalized in any way as a result of your receiving this Notice, considering whether to join this lawsuit, or actually

Questions? Contact the Administrator at XXX-XXX-XXXX.

DO NOT CONTACT THE COURT

Notice of Collective Action Certification – Deatrick v. Securitas Security Systems USA, Inc.,
United States District Court for the Northern District of California, case no. 3:13-cv-5016 JST

joining this lawsuit, you may contact Securitas USA's Human Resources Department or toll-free Hotline, Plaintiff's lawyers or any other lawyer you choose.

15. Do I have a lawyer in this case?

If you choose to join this lawsuit you will be represented by the Named Plaintiff through his attorneys:

Eduardo G. Roy – eduardo.roy@prometheus-law.com
Daniel C. Quintero – daniel.quintero@prometheus-law.com
John R. Hurley – john.hurley@prometheus-law.com
PROMETHEUS PARTNERS L.L.P.
220 Montgomery Street Suite 1094
San Francisco, CA 94104
Telephone: 415.527.0255

16. Who represents Securitas USA?

Securitas Security Services USA, Inc. is represented by:

Sherry B. Shavit - sshavit@tharpe-howell.com
Gabriel J. Padilla - gpadilla@tharpe-howell.com
THARPE & HOWELL, LLP
15250 Ventura Blvd., Ninth Floor
Sherman Oaks, California 91403
Tel: (818) 205-9955

and

J. Kevin Lilly - klilly@littler.com
LITTLER MENDELSON PC
2049 Century Park East, 5th Floor
Los Angeles, CA 90067
Tel: (310) 553-0308

17. How will the lawyers be paid?

The Plaintiff's attorneys will not charge you directly for their work in this case. If the Plaintiff recovers money, the Plaintiff's attorneys will be paid whatever attorneys' fees the Court orders. Those fees may be subtracted from the recovery obtained from Securitas USA, they may be paid separately by Securitas USA, or they may be a combination of the two. If the Plaintiff recovers no money from Securitas USA, the attorneys will not be paid for their work on this case.

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EXHIBIT 2

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

MICHAEL DEATRICK, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

SECURITAS SECURITY SERVICES USA,
INC.,

Defendant.

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

**CONSENT TO BE PARTY
PLAINTIFF**

1. I consent to be a party plaintiff in a lawsuit against Securitas Security Services USA, Inc. (“Securitas USA”), and/or related entities and individuals in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b), and other relief which may be available under federal or state law.

2. By signing and returning this consent form, I hereby designate Prometheus Partners L.L.P. to represent me in such lawsuit and to make decisions on my behalf concerning the litigation and any settlement. I agree to be bound by any adjudication of this action by a court, whether it is favorable or unfavorable.

3. I understand that in the event of a favorable settlement or judgment, proportionate fees of Prometheus Partners L.L.P. as well as reasonable expense of the firm may be deducted from any settlement or judgment amount, or may be separately paid by Securitas USA, as ordered and approved by the Court.

4. I also consent to join any separate or subsequent action to assert my claim against Securitas and/or any related entities or persons potentially liable.

Signature

Full Name (print)

Date

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Additional Information Regarding The Consent To Join Form

Please fill out this sheet of information so that we (your attorneys) can stay in touch to update you regarding the lawsuit's progress, and so that we can give you your share of any money that is recovered (if any) from the defendant on your behalf.

Please fill in your contact information below. If this form is pre-printed with your contact information, please correct any information that is wrong and fill in any missing information.

Name: _____

Street Address: _____

City, State & Zip: _____

Telephone Number(s): (home) _____

(work) _____

(cell) _____

Email Address(es): _____

Please check this box if you have made changes or additions to pre-printed contact information.

ADDITIONAL INFORMATION:

- This lawsuit seeks damages for underpayment of overtime by Securitas for failing to include lump-sum vacation pay in the regular rate of pay for its employees.
- It is illegal for any employer to retaliate against an individual for exercising his or her rights (such as by participating in this lawsuit, signing or submitting this document, or talking to attorneys about his or her rights to full compensation for work performed).
- If you have any questions, please contact John Hurley of Prometheus Partners LLP at john.hurley@prometheus-law.com or 415-580-1605.
- You may share this form and the Notice you received with others who have worked as security employees for Securitas.

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EXHIBIT 3

COURT AUTHORIZED NOTICE

United States District Court for the Northern District of California

If you were employed as a security employee by Securitas Security Services USA, Inc. and received annual lump-sum vacation pay upon an employment anniversary since October 28, 2010, please read this notice.

A collective action lawsuit may affect your legal rights.

This is a court-authorized notice. This is not a solicitation from a lawyer.

- A former security officer has filed a lawsuit against Securitas Security Services USA, Inc. (“Securitas USA”). The Plaintiff claims that vacation pay paid in a lump-sum annually upon an anniversary of employment is actually a bonus, and that Securitas USA should have counted that bonus in determining the rate used to calculate overtime pay.
- The lawsuit is proceeding as a collective action on behalf of the following class of Securitas USA employees:

All persons throughout the United States, including its territories and possessions:

1. who are or were security employees of Securitas Security Services USA, Inc.;
2. who received annual lump-sum vacation pay upon an anniversary of employment since October 28, 2010; and
3. who were required to be employed on their anniversaries of employment to receive vacation pay.

Attorneys for the parties, any Judge to whom this case is assigned, and their respective staffs and immediate families are excluded from the class.

- The Court has not decided who is right and who is wrong.
- Your legal rights may be affected. To learn more about the lawsuit and your rights and options with respect to the lawsuit, visit <url>.

**Questions? Contact the Administrator at XXX-XXX-XXXX.
DO NOT CONTACT THE COURT**

Notice of Collective Action Certification – Deatruck v. Securitas Security Systems USA, Inc.,
United States District Court for the Northern District of California, case no. 3:13-cv-5016 JST

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EXHIBIT 4

NOTICE OF COLLECTIVE ACTION CERTIFICATION

Deatrick v. Securitas Security Systems USA, Inc.,
United States District Court Northern District of California, case no. 3:13-cv-5016 JST

On <date>, you were mailed Notice Materials in the above-referenced case. To participate in the case, you must submit a consent form postmarked on or before <date> to the Administrator at the address below.

Deatrick v. Securitas ADMINISTRATOR, C/O RUST CONSULTING, INC.
PO BOX XXXX, FARIBAULT, MN 55021-7190.

If you do not want to participate in the matter, you do not need to take any action.

If you have misplaced or did not receive your Notice Materials or have questions regarding this Notice, visit <url> or call the notice Administrator toll-free at 1-800-XXX-XXXX.