

IN THE UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:17-cv-628

PEDRO RODRIGUEZ MARTINEZ, MATEO
HERNANDEZ LOPEZ and ELMER
MENJIVAR ARGETA, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

ALPHA TECHNOLOGIES SERVICES, INC.,
EAST CAROLINA COMMERCIAL
SERVICES, LLC, SOLAR GUYS, INC.,
CESAR MENDOZA, and JORGE RAMOS,

Defendants.

CONSENT ORDER

This matter comes before the Court on Plaintiffs' Motion for Conditional Certification of a Collective Action, For Disclosure Of Contact Information for Potential Opt-In Plaintiffs, and to Distribute Court-Approved Notice Pursuant to 29 U.S.C. § 216(b) and the accompanying Memorandum in support thereof. With the consent of all Parties to this case, the Court hereby ORDERS:

1. The Court hereby grants Plaintiffs' Motion for Conditional Certification of a Collective Action, and conditionally certifies the following two (2) collectives pursuant to 29 U.S.C. § 216(b):

(a) A collective consisting of all similarly situated individuals engaged in the construction of IS46 through Defendant East Carolina Commercial Services individually or jointly

with one or more of the other Defendants who were required to work in excess of forty hours per week and were not paid the appropriate overtime rate for hours worked over 40 in a workweek, and who timely file (or have already filed) a written consent to be a party to this action pursuant to 29 U.S.C. § 216(b); and

(b) A collective consisting of all similarly situated individuals engaged in the construction of IS46 through Defendant East Carolina Commercial Services individually or jointly with one or more of the other Defendants who were required to purchase and provide their own hard hats, vests, boots, safety glasses and/or gloves and were not reimbursed for those purchases or paid minimum wage for their first week of work, and who timely file (or have already filed) a written consent to be a party to this action pursuant to 29 U.S.C. § 216(b).

3. The Court hereby authorizes the Notice attached as Exhibit A hereto for distribution in English and Spanish to potential opt-in Plaintiffs via United States mail, electronic mail, and/or Facebook Messenger. The Parties are hereby directed to meet and confer after forty-five days following the date of entry of this Order to attempt to agree on whether any additional means of distribution of the Notice is necessary to provide the named Plaintiffs a reasonable opportunity to apprise potential members of the conditionally certified collectives of the existence of this action and their opportunity to participate. The Parties will report back to the Court within sixty (60) days of this Order regarding the outcome of their conferral and shall at that time inform the Court of any disputes regarding the means of distributing notice and seek a ruling from this Court.

4. The Court further approves the Consent to Sue Form attached as Exhibit 4 to Plaintiffs' Memorandum, Docket No. 50-4.

5. Defendants shall within fourteen days of the Court's Order on this Motion, provide to Plaintiffs available information regarding the full names, date(s) of employment, job title(s),

last known addresses, email addresses, telephone numbers, and dates of birth of all putative members of the collectives to assist Plaintiffs in the distribution of the approved notice.

6. The deadline for joinder of opt-in Plaintiffs filing Consent to Join forms to join the conditionally certified collectives shall be four (4) months from the date of this Order. Upon timely application by Plaintiffs and a showing that Defendants have failed to provide personal contact information such as home addresses, telephone numbers or e-mail addresses for a significant number of the members of the proposed collectives conditionally certified above, or that the information provided is no longer valid, the Court may extend the opt-in period by up to two (2) months.

SO ORDERED this the 27th day of November, 2018.

A handwritten signature in black ink, reading "Louis W. Elvagan". The signature is written in a cursive, flowing style.

UNITED STATES DISTRICT COURT JUDGE