
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

LISA AGUILAR, et al.,

Plaintiffs,

vs.

**MANAGEMENT & TRAINING
CORPORATION,**

Defendant.

ORDER

Case No. 1:20-cv-00058-DAK

Judge Dale A. Kimball

Pursuant to the terms of the Joint Motion to Approve Stipulated form of Notice of Collective Action, Stay Litigation Pending Mediation and Dismiss State Claims (ECF No. 37) (the “Joint Motion”) and 29 U.S.C. § 216(b), the court enters the following Order.

1. Conditional Certification of FLSA Collective Action

Pursuant to 29 U.S.C. § 216(b), the court conditionally certifies the Fair Labor Standards Act collective action and authorizes the Parties to publish notice to the putative members of the collective action. For the purposes of this conditional certification and notice only, the conditional collective action putative members shall be defined as:

All current and former non-exempt employees with the job title of “Correctional Officer” who worked 40 hours or more in any workweek and who engaged in pre-shift security screenings during the period measured from or after January 15, 2018, to the present and employed by Defendant at any of the following locations: East Mississippi Correctional Facility, Marshall County Correctional Facility, Wilkinson Correctional Facility and Otero County Processing Center.

This Order shall not prevent or prejudice Defendant’s ability or right to later move for decertification or file a motion on an issue other than conditional certification that takes the

position that Plaintiffs are not similarly situated. Additionally, in connection with the conditional certification:

- The court approves of the form and substance of both the Notice of Collective Action Lawsuit (ECF No. 37-1) (attached as Exhibit A to the Joint Motion) and the Consent to Become a Party Plaintiff (ECF No. 37-2) (attached as Exhibit B to the Joint Motion). Pursuant to the Joint Motion, only one copy of the Notice shall be sent to putative collective action members by U.S. Mail.
- Pursuant to the Joint Motion, the court names Edgar Castro, Jorge Guillen, and Jason Johnson (collectively, “Plaintiffs”) as the representatives of this collective action. Gary K. Berger of Burger Law, LLC shall be counsel for the collective action.
- The court orders Defendant to provide the names and last known addresses for all putative collective members to Plaintiffs’ counsel no later than thirty (30) days from the date of this Order.
- Plaintiffs’ counsel shall be responsible for and bear all costs associated with publishing the Notice (ECF No. 37-1) to putative collective action members.
- Plaintiff’s counsel shall maintain a webpage with information about the case in a neutral format with the opt-in form at <https://burgerlaw.com/MTCcollectiveaction>. The Parties shall agree to the format and content of the webpage.

2. Stay of Proceedings

The court stays all activity in this matter pending the outcome of mediation.

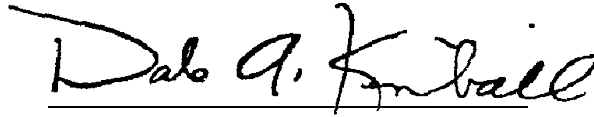
3. Dismissal of Claims

Pursuant to the Joint Motion, the court dismisses the state law claims in this matter.

Therefore, Count II (New Mexico Minimum Wage Act), Count III (Unjust Enrichment), Count IV (Breach of Contract), and Count V (Quantum Meruit) from the First Amended Complaint and Class Action Complaint (ECF No. 33) are hereby dismissed with prejudice as to the Plaintiffs’ individual claims. These counts are dismissed without prejudice as to any putative class members.

DATED this 19th day of January, 2021.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive, flowing style. The first name "Dale" is written with a large, prominent "D". The middle initial "A." is written in a smaller, more compact script. The last name "Kimball" is written with a large "K" and a long, sweeping tail that extends to the right.

DALE A. KIMBALL

United States District Judge