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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14) Case No. 3:23-cv-00792-LB
15 ANTONIO LOERA, JR. and CHARLOTTE)
DANIELS, on behalf of themselves and all others)
16 similarly situated,)

17 Plaintiff,

18 vs.

19 COUNTY OF ALAMEDA, a political subdivision)
of the State of California,)

20 Defendant.
21

)
) **PLAINTIFFS' MEMORANDUM OF**
) **POINTS AND AUTHORITIES IN**
) **SUPPORT OF MOTION FOR**
) **CONDITIONAL CERTIFICATION AND**
) **DISTRIBUTION OF JUDICIAL NOTICE**
)
) Date: June 22, 2023
) Time: 9:30 a.m.
) Courtroom: B, 15th Floor
) Judge: Hon. Laurel Beeler
)
) Complaint Filed: February 22, 2023
) Trial Date: TBD

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1 **I. INTRODUCTION**

2 As contemplated by the Fair Labor Standards Act (“FLSA”), Plaintiffs bring the instant action
3 for unpaid overtime on their own behalf and on behalf of a group of “similarly situated” employees.
4 See 29 U.S.C. § 216(b). Plaintiff Loera works and Plaintiff Daniels worked for Defendant Alameda
5 Count in its Alameda County Sheriff’s Office (“ACSO”) as Sheriff’s Safety Aides with assigned shifts
6 at or around the Oakland International Airport. Plaintiffs seek conditional certification of other current
7 and former Sheriff’s Safety Aides who work or worked for ASCO at or around Oakland International
8 Airport. Sheriff’s Safety Aides provide security services and traffic control services at the airport.

9 Three important features distinguish FLSA collective actions from traditional Rule 23 class
10 actions. First, in order to participate in a collective action, an employee must “opt in,” meaning
11 he or she must consent in writing to join the lawsuit and that consent must be filed with the court.
12 Second, the statute of limitations runs on each employee’s claim until his or her consent is filed.
13 Third, to serve the FLSA’s “broad remedial purpose,” district courts have the authority to order
14 notice to other potentially similarly situated employees to inform them of their right to join the case.

15 The Ninth Circuit has adopted the “near-universal practice [of] evaluat[ing] the propriety of the
16 collective mechanism [under the FLSA] by way of a two-step ‘certification’ process.” Plaintiffs
17 easily satisfy the burden under the first-step analysis to show that they and other Sheriff’s Safety
18 Aides are “similarly situated,” and therefore entitled to notice of the action. This “lenient” standard
19 typically results in conditional certification being granted. *Harris v. Vector Marketing Corp.*, 716
20 F.Supp.2d 835, 837-839 (N.D. Cal. May 18, 2010).

21 Plaintiffs’ claims are supported by 11 declarations, including their declarations and those
22 of witnesses and opt-ins, who testify consistently about, e.g., ACSO’s expectation that its
23 Sheriff’s Safety Aides arrive before and stay after their shift to complete required procedures. As
24 set forth below, Plaintiffs are similarly-situated with the members of the proposed FLSA
25 Collective in that they, *inter alia*, (1) all performed the same job duties for ACSO; (2) were all
26 subject to the same work schedule (three 11.5 hour shifts and one 5.5 hour shift each week), including
27 the requirement to arrive 15 minutes before their scheduled shifts to attend a “muster” meeting; (3)
28 were all subject to the one-for-one post replacement process and equipment return

1 requirements, which resulted in work performed after the end of their scheduled shifts, (4)
 2 were paid in a similar manner; and (5) commonly worked unpaid overtime hours without proper
 3 overtime pay. Further, Sheriff’s Safety Aides have been subject to the same written policy which
 4 requires advanced-approval to work overtime or Agency approval for unanticipated emergency
 5 overtime work, resulting in non-recording of overtime required for the job but not pre-approved
 6 and Sheriff’s Safety Aides have been dissuaded from submitting overtime cards for work
 7 performed before or after their scheduled shift. This case is suitable for conditional certification.
 8 Accordingly, Plaintiffs seek to distribute a court-authorized notice to facilitate the collective
 9 certification and advance the goals of the FLSA. Promptly sending judicially approved notice will
 10 avoid multiple lawsuits and ensure that all potential members of the collective receive notice of their
 11 claims, have the opportunity to join this case, and stop the running of the statute of limitations.

12 **II. RELEVANT FACTUAL BACKGROUND**

13 During the relevant time period, the County of Alameda employed Sheriff’s Safety Aides to
 14 perform security work at a number of locations in and around the Oakland International Airport.¹ In or
 15 around 2008, ACSO adopted an alternative work schedule for Sheriff’s Safety Aides that involved
 16 four shifts per week.² This schedule has persisted.³ During the relevant period, Sheriff’s Safety Aides
 17 typically have been scheduled to work three 11.5-hour shifts and one 5.5-hour shift resulting in a 40-
 18 hour work week. Sheriff’s Safety Aides are typically compensated for 40 hours per work week.⁴
 19 However, Defendant has maintained a policy, plan, and/or practice of requiring Sheriff’s Safety Aides

21 ¹ Case 3:23-cv-00792-LB, Document (“Doc”) 1-1, Complaint ¶9; Declaration of Antonio Loera, Jr.
 22 (“Loera Decl.”), at ¶¶ 2-4, Exh. A; Declaration of Charlotte Daniels (“Daniels Decl.”), at ¶¶ 3-4;
 23 Declaration of Rickey Berry (“Berry Decl.”), at ¶¶ 3-4; Declaration of James Davis (“Davis Decl.”), at
 24 ¶¶ 3-4; Declaration of Fantadjan Kaba (“Kaba Decl.”), at ¶¶ 3-4; Declaration of Albert Martinez
 25 (“Martinez Decl.”), at ¶¶ 3-4; Declaration of Cassaundra Peoples (“Peoples Decl.”), at ¶¶ 3-4;
 26 Declaration of Avern Saechao (“Saechao Decl.”), at ¶¶ 3-4; Declaration of Ernani Santa Maria (“Santa
 27 Maria Decl.”), at ¶¶ 3-4; Declaration of Praneel Singh (“Singh Decl.”), at ¶¶ 3-4; Declaration of
 28 Viphavady Thavonekham (“Thavonekham Decl.”), at ¶¶ 3-4 (together “SSA Decls.”).

² Compl. ¶ 10; SSA Decls. ¶ 5. The alternate work schedule also became part of the Memorandum of
 Understanding between the Northern California Public Sector Region Local 1021 of the Service
 Employees International Union, CTW Local 1021 and the County of Alameda. Loera Decl., ¶ 12, Exh.
 B at pp. 187-194.

³ Compl. ¶ 10; SSA Decls. ¶ 5.

⁴ Compl. ¶ 10; SSA Decls. ¶ 5.

1 to work uncompensated overtime.⁵ During the relevant time period, Defendant has required Sheriff's
 2 Safety Aides to arrive at a station at least 15 minutes before their scheduled shifts to perform job
 3 duties, including the following:

- 4 A. Attend a "muster" meeting where they were briefed on recent incidents and
 5 advised of issues affecting upcoming or future shifts;
- 6 B. Pick up the body cameras they are required to wear for their shifts;
- 7 C. Arrive in uniform or put on their uniform; and
- 8 D. Board a van to be driven to their posts in the airport.⁶

9 Other work performed by Sheriff's Safety Aides during the time before their scheduled shift has
 10 included picking up the radios they need for their shifts, reading memorandums, emails, and directives
 11 relating to matters affecting upcoming or future shifts, filling out timesheets, taking tests, checking
 12 their schedules, adjusting schedules due to absences, inspecting equipment, and being notified about
 13 which workstation they were to be posted for the upcoming shift.⁷

14 Defendant has also required Sheriff's Safety Aides to perform work after the end of their
 15 scheduled shifts.⁸ Defendants utilize a one-for-one system to drop off and pick up Sheriff's Safety
 16 Aides from their work posts. Sheriff's Safety Aides for an upcoming shift are driven from the muster
 17 station to their posts in a van and dropped off, one-by-one to their posts, while the Sheriff's Safety
 18 Aides they are relieving are simultaneously picked up by the van one-by-one.⁹ Due to this one-for-one
 19 system of drop off and pick up, Sheriff's Safety Aides are not permitted to leave their post or cease
 20 their job duties until their relief arrives.¹⁰ Sheriff's Safety Aides typically arrive back at the station
 21 between 15 and 30 minutes after their shift is scheduled to end.¹¹ Back at the station, Sheriff's Safety
 22 Aides drop off their body cameras before the true end of their shifts.¹² Defendant does not pay Sheriff's
 23 Safety Aides for their pre-shift and post-shift job duties, resulting in unpaid overtime. Defendant's

24 ⁵ Compl. ¶ 11; SSA Decls. ¶ 6.

25 ⁶ Compl. ¶ 11; SSA Decls. ¶¶ 6-7; Daniels Decl. ¶¶ 6-8.

26 ⁷ Compl. ¶ 11; SSA Decls. ¶ 7; Daniels Decl., ¶ 8.

27 ⁸ Compl. ¶ 12; SSA Decls. ¶ 8; Daniels Decl., ¶ 9.

28 ⁹ Compl. ¶ 12; SSA Decls. ¶ 8; Daniels Decl., ¶ 9.

¹⁰ Compl. ¶ 12; SSA Decls. ¶ 8; Daniels Decl., ¶ 9.

¹¹ Compl. ¶ 12; SSA Decls. ¶ 8; Daniels Decl., ¶ 9.

¹² Compl. ¶ 12; SSA Decls. ¶ 8; Daniels Decl., ¶ 9.⁷

1 uniform policy, plan, and/or practice results in Sheriff’s Safety Aides regularly working 30 minutes or
2 more of uncompensated time per shift, which typically amounts to at least two-hours of
3 uncompensated overtime per week per employee.¹³

4 Sheriff’s Safety Aides have been subject to the same written policy which requires
5 advanced-approval to work overtime or Agency approval for unanticipated emergency overtime
6 work, resulting in non-recording of overtime required for the job but not pre-approved and
7 Sheriff’s Safety Aides have been dissuaded from submitting overtime cards for work performed
8 before or after their scheduled shift.¹⁴ Defendant was aware, or should have been aware, that
9 Plaintiffs and similarly situated Sheriff’s Safety Aides performed work that required payment of
10 overtime compensation. For example:

- 11 A. Defendant knew Plaintiffs and similarly situated Sheriff’s Safety Aides worked
12 overtime hours because Defendant required Sheriff’s Safety Aides to attend muster
13 meetings scheduled 15 minutes before the beginning of the shift, implemented the one-
14 for-one drop-off and pick-up system, as well as equipment return requirements;
- 15 B. Defendant reinforced this policy through verbal communications encouraging Sheriff’s
16 Safety Aides to arrive early, and requiring them to arrive *at least* 15 minutes before their
17 scheduled shift start times.
- 18 C. Over the years, Sheriff’s Safety Aides complained to duty sergeants and lieutenants that
19 they were not compensated for the time they worked before and after their scheduled
20 shifts.¹⁵

21 //

22 //

23 //

24
25 ¹³ Compl. ¶ 13; SSA Decl. ¶ 10; Daniels Decl., ¶ 11; Berry Decl. ¶ 9; Martinez Dec. ¶ 9; Singh Decl.
¶ 9.

26 ¹⁴ Loera Decl., ¶¶ 11-12, Exh. B at p. 9 (Section 7A); Daniels Decl., ¶¶ 12-13; Singh Decl., ¶ 11;
27 Santa-Maria Decl., ¶ 11; Saechao Decl., ¶ 11; Peoples Decl., ¶ 11; Thavonekham Decl., ¶ 11; Martinez
Decl., ¶ 10.

28 ¹⁵ Compl. ¶ 14; SSA Decl. ¶¶ 6-11; Daniels Decl. ¶¶ 6-13; Berry Decl. ¶¶ 6-10; Martinez Decl. ¶¶ 6-
10.

1 **III. ARGUMENT**

2 A. Courts Apply a Lenient Standard in Granting Conditional Certification under the
 3 FLSA, Requiring Only a Minimal Showing by Plaintiffs that Collective
 4 Action Members are Similarly Situated.

5 Certification of collective actions under the FLSA generally proceeds in two stages. *Campbell*
 6 *v. City of Los Angeles*, 903 F.3d 1090, 1114 (9th Cir. 2018). At the first stage, the court determines
 7 only whether the collective defined in the complaint satisfies the “similarly situated” requirement of
 8 section 29 U.S.C. § 216(b), so that notice may issue to potential collective members. *Id.* at 1109; *see*
 9 *also Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 75 (2013) (“The sole consequence of
 10 conditional certification is the sending of court-approved written notice....”). The more searching,
 11 second stage analysis does not apply until after discovery is completed. *Campbell*, 903 F.3d at 1109.

12 At the first stage of FLSA conditional certification, “[t]he level of consideration is ‘lenient,’”
 13 “sometimes articulated as requiring ‘substantial allegations . . . akin to a plausibility standard’ (*id.*),
 14 and “typically results in conditional certification” being granted. *Harris*, 716 F.Supp.2d at 837.
 15 Although certification is not automatic, the plaintiffs' burden is nonetheless a light one. *Campbell*, 903
 16 F.3d at 1109; *Godhigh v. Savers, LLC*, 2016 WL 7406659, at *1 (N.D. Cal. Dec. 22, 2016). Plaintiffs
 17 do not need to establish conclusively that a collective action is proper because a defendant will be free
 18 to revisit the issue at the close of discovery. *Benedict v. Hewlett-Packard Co.*, 2014 WL 587135, at *5
 19 (N.D. Cal. Feb. 13, 2014). The Court need not consider the merits of Plaintiffs' FLSA claim. *Richie v.*
 20 *Blue Shield of California*, 2014 WL 6982943, at *6 (N.D. Cal. Dec. 9, 2014); *Centurioni v. City &*
 21 *Cnty. of San Francisco*, 2008 WL 295096, at *2 (N.D. Cal. Feb. 1, 2008).

22 “Under section 216(b), if the party plaintiffs are similar in some respects material to the
 23 disposition of their claims, collective treatment may be *to that extent* appropriate, as it may *to that*
 24 *extent* facilitate the collective litigation of the party plaintiffs' claims.” *Campbell*, 903 F.3d at 1115
 25 (emphasis in orig.). In this initial stage, the court’s analysis typically focuses on a review of the
 26 pleadings, and may “be supplemented by declarations or limited other evidence.” *Id.* at 1109.
 27 “Courts typically require nothing more than substantial allegations, supported by declarations or
 28 discovery, to establish that the putative class members were together the victims of a single decision,
 policy, or plan.” *Brewer v. General Nutrition Corp.*, 2013 WL 100195, *3 (N.D. Cal. Jan. 7, 2013)

1 (internal quotation marks omitted).

2 Because plaintiffs’ burden for conditional certification is not heavy, “[a] handful of declarations
3 may suffice” to make the showing. *Harris*, 716 F. Supp. 2d at 838. *See, e.g., Sanchez v. Sephora*
4 *USA, Inc.*, 2012 WL 2945753, at *3 (N.D. Cal. July 18, 2012) (granting conditional certification of a
5 collective of employees covering 280 stores based on four declarations); *Gilbert v. Citigroup, Inc.*,
6 2009 WL 424320, at *5 (N.D. Cal. Feb. 18, 2009) (granting conditional certification of nationwide
7 collective of bank employees based on five California employee declarations and a compensation
8 document); *Leuthold v. Destination Am., Inc.*, 224 F.R.D. 462, 467 (N.D. Cal. 200) (granting
9 conditional certification of a nationwide collective based on three declarations). Even one opt-in
10 beyond the plaintiffs shows sufficient interest in the suit to warrant providing notice to the Collective.
11 *See, e.g., Brooks v. A. Rainaldi Plumbing, Inc.*, 2006 WL 3544737, *2 (M.D. Fla. Dec. 8, 2006) (even
12 one opt-in notice can warrant conditional certification). In this matter, there are already 19 opt-ins
13 beyond the named plaintiffs. (Doc 1-1; Doc 7; Doc 9; Doc 15)

14 Here, discovery has yet to be exchanged. Accordingly, conditional certification should be
15 analyzed under the lenient first-stage standard, and should be granted, based upon the well-pled
16 complaint (Doc 1) and the declarations supporting this motion, which articulate issues regarding
17 which Plaintiffs and the proposed Collective are similarly situated.

18 B. Plaintiffs Have Met Their Burden of Showing that Sheriff’s Safety Aides Are
19 Similarly Situated with Respect to the Challenged Pay Practices.

20 Plaintiffs have met their burden of showing that they and other Sheriff’s Safety Aides working
21 at or around the Oakland International Airport are similarly situated. Plaintiffs and the declarants testify
22 to the uniform policies and practices which caused them to work uncompensated time before and
23 after their shifts. Among other issues regarding which Plaintiffs and the Collective Action Members
24 are similarly situated, Defendants requires that they:

- 25 1) Attend a “muster” meeting 15 minutes before the scheduled start of their shift, where they
- 26 are briefed on recent incidents and advised of issues affecting upcoming or future shifts;
- 27 2) Pick up the body cameras they are required to wear for their shifts;
- 28 3) Arrive in uniform or don their uniform;

- 1 4) Pick up the radios they need for their shifts;
- 2 5) Read memorandums and directives relating to matters affecting upcoming or future shifts;
- 3 6) Fill out timesheets and check schedules; and
- 4 7) Board a van to be driven to their posts in the airport.

5 Defendant has also required Sheriff's Safety Aides to perform work after the end of their
6 scheduled shifts. Defendants utilize a one-for-one system to drop off and pick up Sheriff's Safety
7 Aides from their work posts. Sheriff's Safety Aides for an upcoming shift are driven from the muster
8 station to their posts in a van and dropped off, one-by-one to their posts, while the Sheriff's Safety
9 Aides they are relieving are simultaneously picked up by the van one-by-one. Sheriff's Safety Aides
10 are not permitted to leave their post or cease their job duties until their relief arrives. Due to this one-
11 for-one system of drop off and pick up, Sheriff's Safety Aides typically arrive back at the station
12 between 15 and 30 minutes after their shift is scheduled to end. Back at the station, Sheriff's Safety
13 Aides drop off their body cameras and other equipment before the true end of their shifts.

14 Plaintiffs and the FLSA Collective are (or were) all Sheriff's Safety Aides subject to these
15 practices, and their testimony suffices to warrant conditional certification. Indeed, if the Collective were
16 similarly situated as to even *one* of these challenged practices, it would be enough. The common policy or
17 practice "does not need to be a formal, written policy." *Feaver v. Kaiser Found. Health Plan., Inc.*, 2016
18 WL 324176, at *4 (N.D. Cal. Jan. 27, 2016) (citing *Espinoza v. Cnty. of Fresno*, 290 F.R.D. 494, 501
19 (E.D. Cal. 2013)).

20 In this Court's order granting conditional certification in *Brown v. Permanente Medical*
21 *Group, Inc.*, it sufficed that plaintiffs' declarations commonly alleged systematic underpayment at
22 the beginning, middle, and end of shifts, supported by a handful of available documents. *Id.*, 2017
23 WL 1536493, at **1-2 (N.D. Cal. Feb. 2, 2017). There, "the plaintiffs said they were not paid for time
24 they spent logging into software programs at the beginning of their shifts, preparing to resume taking
25 calls at the end of meal breaks, and logging out of the software programs and finishing phone calls at
26 the end of their shifts." *Id.* at *1. Because plaintiffs alleged that these underpayments allegedly
27 resulted from defendants' policies, and declarants confirmed that they had "similar issues with
28 uncompensated work in starting their shifts, at the meal break, and at the end of their shifts,"

1 conditional certification was appropriate. *Id.*

2 This Court likewise conditionally certified a collective action similar to the instant case in
3 *Guilbaud v. Sprint/United Management Co.*, where retail store sales staff alleged that Sprint
4 required them to “perform work before clocking in, during scheduled unpaid meal breaks, and
5 after clocking out, for which they were not compensated.” *Id.*, 2014 WL 10676582, at *1 (N.D.
6 Cal. Oct. 3, 2014). Sprint’s declarations rebutting the allegations did not prevent conditional
7 certification, but were reserved for the second stage, FLSA certification motion. *Id.* at *2. *See accord*
8 *Lewis v. Wells Fargo & Co.*, 669 F. Supp. 2d 1124, 1128 (N.D. Cal. 2009) (defendant’s 54
9 declarations did not undermine first-stage conditional certification showing by plaintiffs).

10 Another helpful example of a conditional certification order in a FLSA off-the-clock case is in
11 *Beauperthuy v. 24 Hour Fitness USA, Inc.*, 2008 WL 793838 (N.D. Cal. 2008). There, ten former
12 personal trainers from California and other states who were in the proposed collective provided
13 declarations corroborating that they had similar responsibilities and similar positions with
14 defendant. *Id.* at *3. The declarants were all non-exempt, hourly employees who claimed off-the-clock
15 overtime resulting from the defendants’ overtime budget or cap, *i.e.*, that many “floor time” or “FIT
16 hours” tasks required of the personal trainers that went unrecorded in light of defendant’s policy. *Id.*
17 Defendants were not immunized by a handbook saying to record all time worked. *Id.* at *4. The Northern
18 District found that the “allegations in the Trainers’ declarations adequately establish, for the purposes of
19 conditional certification, a 24 Hour Fitness corporate policy.” *Id.*

20 What was true in *Brown*, *Guilbaud*, and *Beauperthuy* is true here. Plaintiffs and the declarants
21 were in similar positions, working similar schedules and subject to similar policies. Plaintiffs’ and the
22 declarants’ testimony challenges Defendant’s pay practices applicable to all Sheriff’s Safety Aides
23 (*e.g.*, not recording or compensating pre-shift time and post-shift time). The Court should grant
24 conditional certification.

25 C. Plaintiffs’ Proposed Form of Notice Is the Best Notice Practicable and Contains
26 the Disclosures Most Often Required in FLSA Cases.

27 Upon satisfaction of the FLSA conditional certification standard, a plaintiff should disseminate
28 notice to inform potential opt-ins about the action and their right to participate. *See Hoffmann-La Roche*

1 v. *Sperling*, 493 U.S. 165, 169-71 (1989). Court-supervised notice ensures that the notification procedure
 2 will be accomplished in an efficient, accurate manner. *See id.* at 170-71.

3 *I. Proposed Notice and Timeline*

4 To facilitate the notice process and allow potential class members to be informed of their rights,
 5 Plaintiffs submit a proposed “Notice” and a consent form, for which they seek approval. *See* [Proposed]
 6 Order Granting Plaintiffs’ Motion for Conditional FLSA Collective Action Certification, **Exhibit A**
 7 (“Notice”).¹⁶ In addition, Plaintiffs request an Order from this Court adopting the following schedule
 8 with respect to the provision of the Notice:

DEADLINE	SUBJECT
10 days from order approving Notice to potential FLSA Collective members	Defendant shall submit FLSA Collective List with each individual’s (1) name, (2) job title, (3) last known address and telephone number, (4) dates of employment, (5) location of employment, (6) employee number, (7) last known personal email address (for former employees) or work email address (for current employees), and (8) social security number (last four digits only).
7 days from receipt of class data from Defendant	Plaintiffs’ Counsel shall mail, text, and email a copy of the Court-approved Notice and Consent Forms to the Potential FLSA Collective members.
30 and 60 days from date Notice is delivered to the potential FLSA Collective members	Plaintiffs’ Counsel is authorized to mail, text, and email an exact copy of the Court-approved Notice and Consent Forms to the potential FLSA Collective members to remind of the postmark deadline for the submission of the Consent forms unless the potential FLSA Collective member indicates or has indicated that they decline communication regarding this matter.
90 days from date Notice is delivered to the potential FLSA Collective members	Potential FLSA Collective members have 90 days to postmark, or email their signed Consent forms to Plaintiffs’ Counsel for filing with the Court.

21 *2. The Notice Clearly Communicates Sheriff’s Safety Aides Rights and Options.*

22 Plaintiffs propose a neutral and straightforward form of Notice which informs potential FLSA
 23 Collective members of their statutory opt-in rights. The proposed Notice explains the nature of the
 24 action, briefly summarizes Plaintiffs’ allegations, and states Defendant’s denial of liability. It makes
 25 clear the Court has not adjudicated the merits of the dispute. The Notice also identifies a website at
 26 which individuals considering their options can obtain further information and instructs them how to

27 _____
 28 ¹⁶ **Exhibit B** to the Proposed Order is the Consent-to-Join form (“CTJ”), which allows FLSA Collective members also to provide updated contact information.

1 opt in (by mail, fax, or email), if they so choose. The Notice provides Plaintiffs’ counsel’s contact
 2 information. The Notice also warns that FLSA Collective members will be bound by the resulting
 3 outcome of the lawsuit if they opt in and those who do not opt in will not be eligible to receive any
 4 recovery or relief obtained. Similar notices are routinely approved by this Court. *See e.g., Marino v.*
 5 *CACafe, Inc.*, 2017 WL 5713390, at *5 (N.D. Cal. 2017) (similar notice approved in FLSA case).

6 3. *The Notice Plan Ensures Notice Effectively Reaches Sheriff’s Safety Aides.*

7 Plaintiffs propose sending notice by mail, e-mail, and text message with identical
 8 reminder notices by the same methods. E-mails and texts are inexpensive, efficient complements to
 9 mailed notice. Courts routinely approve the inclusion of e-mail addresses with other contact
 10 information for notice purposes, in recognition of the growing preference for communication by that
 11 method. *See, e.g., Bakhtiar v. Info. Res., Inc.*, 2018 WL 3585057, at *3 (N.D. Cal. 2018); *Marino*,
 12 2017 WL 5713390, at *5; *Walsh v. CorePower Yoga LLC*, 2017 WL 4390168, at *2 (N.D. Cal.
 13 2017); *Otey v. CrowdFlower, Inc.*, 2013 WL 4552493, at *5 (N.D. Cal. 2013); *Lewis*, 669 F. Supp.
 14 2d at 1128 (employees who “are likely to be particularly comfortable communicating by email” are
 15 “just as, if not more, likely to effectuate notice than first class mail.”).

16 Moreover, the workforce appears apt for text-message notice, since it is a modern workforce
 17 and the worksite is not a traditional office location. *See Regan v. City of Hanahan*, 2017 WL 1386334,
 18 at *3 (D.S.C. 2017) (“Plaintiffs’ request that notice be distributed via direct mail, email and text
 19 messaging is reasonable because, in today’s mobile society, individuals are likely to retain their
 20 mobile numbers and email addresses even when they move. Therefore, the Court approves Notice via
 21 regular mail, email and text messaging”); *Thrower v. UniversalPegasus, Int’l Inc.*, 484 F.Supp.3d 473,
 22 490 (S.D. Tex. 2020) (“there is no denying that potential plaintiffs are more likely to receive notice of
 23 the collective action if a court allows text-message notice, in addition to e-mail and mail.”)

24 Here, disseminating the Notice by mail, e-mail, and text will help ensure that the Court-ordered
 25 Notice will be effective in reaching prospective FLSA Collective members and informing them of their
 26 rights. Mailed Notice inevitably fails to reach every single collective member. Corporate address
 27 databases contain errors. Working people, deluged with mail and busy with the concerns of daily
 28 life, may not recognize the Court-issued Notice in a pile of junk mail and bills. It is also inevitable that

1 some recipients will misunderstand the Notice’s significance or requirements. In addition, individuals no
2 longer working for Defendant may have moved, perhaps more than once, since leaving Defendant, and
3 they may not receive a forwarded notice by mail. Disseminating notice to potential FLSA Collective
4 members by mail, e-mail, and text-message solves these problems, increasing the odds they will see it.

5 Lastly, Plaintiffs propose sending reminder notices to the potential FLSA Collective members
6 during the opt-in period. Courts “commonly approve such reminders.” *Benedict*, 2014 WL 587135, at
7 *14. *See also, e.g., Senne v. Kansas City Royals Baseball Corp.*, 2015 WL 6152476, *19 (N.D. Cal.
8 2015) (approving reminder notice); *Helton v. Factor 5, Inc.*, No. 10 Civ. 04927, 2012 WL
9 2428219, at *7 (N.D. Cal. 2012) (same). In Plaintiffs’ counsel’s experience, potential FLSA
10 Collective members need reminders regarding the deadline.

11 D. Plaintiffs Are Entitled to a Complete List of Potential FLSA Collective Members.

12 In order to facilitate timely and orderly notice, Plaintiffs ask this Court to order Defendant to
13 identify substantial information regarding all potential opt-in FLSA Collective members within 10 days
14 of the entry of the order conditionally certifying the class. Specifically, Plaintiffs request: each
15 individual’s (1) name, (2) job title, (3) last known address and telephone number, (4) dates of
16 employment, (5) location of employment, (6) employee number, (7) last known personal email
17 addresses (for former employees) or work email addresses (for current employees), and (8) social
18 security number (last four digits only). Discovery of this information is permitted to facilitate effective
19 notice to potential class members so they may exercise their right to opt in, or not. *See, e.g., Coates v.*
20 *Farmers Grp., Inc.*, 2015 WL 8477918, at *14 (N.D. Cal. Dec. 9, 2015) (ordering defendants to
21 produce within 10 days of court’s order, “the names, all known addresses, all known e-mail addresses,
22 all known telephone numbers, and Social Security numbers of all proposed class members.”)

23 E. The Court Should Grant a Ninety Day Opt-In Period.

24 Plaintiffs request a 90-day notice period, often approved in the Northern District to
25 maximize the opportunity to decide whether or not to participate. *See, e.g., Otey*, 2013 WL 4552493, at
26 * 5 (finding 90 day opt-in period reasonable); *Gee v. Suntrust Mortg., Inc.*, 2011 WL 722111, at *4
27 (N.D. Cal. 2011) (finding 90–day notice period reasonable, and authorizing reminder notice); *Adams v.*
28 *Inter-Con Sec. Sys., Inc.*, 242 F.R.D. 530, 542 (N.D. Cal. 2007) (approving a 90–day notice period). A

1 90-day period allows individuals to research the case, contact Plaintiffs' counsel, consult their
2 families, and weigh this important decision.

3 **IV. CONCLUSION**

4 For the reasons set forth above, the Court should: (1) grant conditional certification of the
5 proposed FLSA Collective and approve the requested 90-day opt-in period; (2) require Defendants to
6 produce the requested FLSA Collective members contact information within 10 days; (3) approve
7 Plaintiffs' proposed form of Notice and Consent-to-Join form and direct that the forms be mailed,
8 emailed, and texted to all identified Sheriff's Safety Aides who worked for Defendant any time during
9 the applicable time period, with a reminder email, postcard, and text to be sent 30 and 60 days after the
10 initial mailing; and (4) permit FLSA Collective members to file Consent-to-Join Forms, by mail, fax,
11 or email, until 90 days after the date of Plaintiffs' mailing of notice to the class.

12 Respectfully submitted,

13 DATED: May 12, 2023

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14
15 By: 

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16 Attorneys for Plaintiffs Antonio Loera, Jr. and
17 Charlotte Daniels and the FLSA Collective