

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

**TIMOTHY W. REPASS AND WILLIAM
SCOTT McCANDLESS, individually and on
behalf of all others similarly situated,
*Plaintiffs,***

v.

**TNT CRANE AND RIGGING, INC.,
*Defendant.***

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NO. 7:18-CV-00107-DC-RCG

ORDER AUTHORIZING NOTICE TO POTENTIAL CLASS

BEFORE THE COURT is Plaintiff Timothy W. Repass and William Scott McCandless (Plaintiffs) and Defendant TNT Crane and Rigging, Inc.’s (Defendant) Agreed Motion to Send Notice to Conditionally Certified Class (Motion). (Doc. 30). This case is before the undersigned through an Order pursuant to 28 U.S.C. § 636 and Appendix C of the Local Court Rules for the Assignment of Duties to United States Magistrate Judges. (Doc. 25). After due consideration of the pleadings and the relevant law, and pursuant to the agreement of the parties, the Court authorizes notice to potential plaintiffs.

Plaintiffs bring this action both individually and on behalf of all others similarly situated against Defendant asserting violations of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.* (Doc. 17). On August 17, 2018, Plaintiffs filed their Opposed Motion to Certify Class. (Doc. 20). On January 17, 2019, the undersigned U.S. Magistrate Judge issued a Report and Recommendation that the following class be conditionally certified:

**ALL CURRENT AND FORMER CRANE OPERATORS OF
DEFENDANT WHO WORKED OUT OF DEFENDANT’S
MIDLAND, SAN ANTONIO, OR HOUSTON YARDS AT
ANY TIME IN THE LAST THREE YEARS.**

(Doc. 28). The Report and Recommendation also recommended ordering the parties to provide the Court with a proposed method of notifying the putative class members. *Id.* The District Court adopted the Report and Recommendation in its entirety on February 6, 2019. (Doc. 29). On February 20, 2019, the parties filed the instant Motion to Send Notice to Conditionally Certified Class. (Doc. 30). The parties stipulate they have conferred and agreed on the contents of the Notice of Collective Action and Consent Forms attached to the parties' Motion. (Docs. 30-2, 30-3, 30-4). Accordingly, the Court approves the expedited issuance of notice to potential class members and the consent forms attached to the parties' Motion.

It is therefore **ORDERED** that the Court approves the expedited issuance of the Notice of Collective Action and Consent Forms the parties filed as Exhibit A to the Motion, to be delivered to the Putative Class Members by first class United States mail. In addition, Plaintiff's counsel may also make available the Notice of Collective Action and Consent Forms the parties filed as Exhibit A to the Motion on a website solely dedicated to disseminating the Notice of Collective Action and Consent Form.

It is further **ORDERED** that, in addition to delivery of the Notice and Consent Forms by mail, the Court authorizes Plaintiff's counsel to issue the Text Message Notice that the parties filed as Exhibit B to the Motion, to be delivered or otherwise disseminated by text message to all Putative Class Members for whom Defendant has provided a working mobile telephone number. For purposes of this Order, "working mobile telephone number" shall mean a mobile telephone number that does not reject text messages **and** (1) for current employees, either a mobile telephone number maintained as a result of the Putative Class Members' employment with Defendant or a personal mobile telephone number, or (2) for former employees, a personal mobile telephone number only.

It is further **ORDERED** that Plaintiff’s counsel may e-mail the Notice of Collective Action and Consent Forms filed as Exhibit A to the Motion only to Putative Class Members for whom Defendant has not provided a working mobile telephone number and for whom Defendant has provided a working e-mail address. For purposes of this Order, “working e-mail address” shall mean an e-mail address that does not bounce-back e-mails as undeliverable **and** (1) for current employees, either an e-mail address maintained as a result of the Putative Class Members’ employment with Defendant or a personal e-mail address, or (2) for former employees, a personal e-mail address only.

It is further **ORDERED** that the Court authorizes the expedited issuance of the Social Media Notice of Collective Action filed as Exhibit C to the Motion, to be delivered or otherwise disseminated through Facebook and/or LinkedIn only to Putative Class Members for whom Defendant has not provided either a working mobile telephone number or a working e-mail address.

It is further **ORDERED** that counsel for Plaintiff may contact Putative Class Members by telephone only to verify mailing addresses or email addresses and to send the Text Message Notice.

It is further **ORDERED** that Plaintiff is authorized to offer the Putative Class Members the option to consent to join this collective action through the use of electronic signatures using Adobe Sign, or similar electronic signature platform.

It is further **ORDERED** that the Parties shall comply with the following schedule:

<p>No later than 10 days from the date of this Order</p>	<p>Defendant shall provide to Class Counsel in Excel (.xlsx) format the following information regarding all Putative Class Members: full name; last known mailing address(es) with city, state, and Zip Code; all known email address(es); beginning date(s) of employment; ending date(s) of employment (if applicable); and all mobile telephone</p>
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	number(s).
Within 30 days of receiving the contact information for all Putative Class Members	Class Counsel shall send a copy of the Court-approved Notice and Consent Form to the Putative Class Members by First Class U.S. Mail; Class Counsel may send the Court-approved Text Message Notice of Collective Action through text message to the Putative Class Members; Class Counsel may send a copy of the Court-approved Notice and Consent Form to the Putative Class Members by e-mail to any Putative Class Members for whom Defendants have not provided a working mobile telephone number; Class Counsel may send the Court-approved Social Media Notice of Collective Action to Putative Class Members through Facebook and/or LinkedIn for any Putative Class Members for whom Defendants have not provided either a working mobile telephone number or working e-mail address; and Class Counsel may make the Notice and Consent Form available on a website solely dedicated to disseminating notice.
Within 3 business days of the initial mailing of the Notice of Collective Action	Class Counsel shall file an Advisory with the Court indicating the date of mailing of the Notice of Collective Action and Consent Form.
60 days from the initial mailing of Notice and Consent Forms to Putative Class Members	The Putative Class Members shall have 60 days to return their signed Consent forms to Class Counsel for filing with the Court (the "Notice Period").
No later than 15 days after the close of the Notice Period	Class Counsel shall file with the Court all signed Consents to Join.

It is so **ORDERED**.

SIGNED this 21st day of February, 2019.



RONALD C. GRIFFIN
UNITED STATES MAGISTRATE JUDGE