

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

JONATHAN RANGEL,)
individually and on behalf of all other)
similarly situated persons,)
)
Plaintiffs,)
)
v.)
)
DMV PROTECTION, LLC, *et al.*,)
)
Defendants.)

Civil Action No. 1:25-cv-01288 (AJT/LRV)

ORDER

In this “hybrid” wage theft and misclassification action, named Plaintiff Jonathan Rangel and seven opt-in Plaintiffs¹ bring a collective action claims under the Fair Labor Standards Act (FLSA) and putative class action claims under the wage and hour laws of Virginia, Maryland and the District of Columbia.² Plaintiffs allege that Defendant DMV Protection, LLC (“DMV”), which provides its clients with security personnel, and its owner Jovan Vladic, misclassified DMV’s security officers as independent contractors and, as a result, failed to pay them proper overtime premiums and certain wages as required by the above statutes.³ Before the Court is Plaintiffs’ Motion for Conditional Certification of an FLSA collective and Rule 23 certification, for a class defined as “[a]ll current and former DMV security guards who worked over 40 hours in any

¹ Two Plaintiffs have opted in since the Motion was briefed ([Opp.] at 2; [Doc. Nos. 105, 116]).

² Plaintiffs sue under “the state laws of Virginia, Maryland, the District of Columbia, and any other state where there are sufficient current and former DMV Protection workers to certify a class.” [Compl.] ¶ 1. The Complaint alleges (and DMV’s payroll records indicate) that DMV operates and has employees in Virginia, DC, and Maryland. *Id.* ¶ 26; [Doc. No. 74-2].

³ By order dated January 14, 2026, the Court denied in most part Defendants’ Motion to Dismiss for Failure to State a Claim. [Doc. No. 80].

workweek since August 4, 2022.” [Doc. No. 73] (the “Motion”).⁴ For the reasons stated below, the Motion is **GRANTED**.

I. BACKGROUND

DMV provides security personnel to secure facilities and events to over 90 clients throughout the DC area, including hotels, embassies, and retail stores. [Doc. No. 74-1] at 29, 31, 148–49; [Doc. No. 74-2]. DMV classifies its security guards as independent contractors and requires them to sign an “Independent Contractor Agreement” (“ICA”), and to review and acknowledge an “Independent Contractor Handbook” (“ICH”), which memorializes the policies to which all DMV security guards are subject. [Doc. No. 74-1] at 37, 82–83; [Doc. No. 74-8]. Defendants’ timekeeping records indicate that a minimum of 192 DMV security guards have worked over 40 hours in at least one work week during the relevant class period. [Doc. No. 74-2] ¶ 9; [Doc. No. 74-21].

All DMV security guards perform essentially the same duties: they “monitor premises to prevent theft, violence, vandalism, or infractions of rules.” *Id.* at 70–71; [Doc. No. 74-9]; [Doc. No. 74-3] at 56. Despite being classified as independent contractors, the guards cannot hire their own employees. [Doc. No. 74-1] at 99; [Doc. No. 74-3] at 80–81. The record indicates that guards will typically be assigned to one (or perhaps a small number) of clients for a protracted period; DMV’s management team attempts to match a guard with a client based on their scheduling preferences. [Doc. No. 74-1] at 50–56. Once assigned to a client, a guard’s schedule is fairly regular and guards must submit time-off requests two weeks in advance through an application called Novagems, managed by DMV. *Id.* DMV supervises its guards through regular supervisor

⁴ Also pending is Plaintiff’s Motion to Amend/Correct the Court’s order to the extent that it dismissed Defendant Vladic as a defendant on all claims, rather than just the VWPA claim. [Doc. No. 87] Upon consideration of that Motion and the briefs in support thereof and in opposition thereto, Defendant Vladic is reinstated as a party-defendant as to the non-VWPA claims.

visits to jobsites and through electronic monitoring via the Novagems app, which tracks the guards' locations, start and stop times, and through which guards submit Daily Activity Reports ("DAR's"). [Doc. No. 74-1] at 56–59; [Doc. No. 74-3] at 31, 81, 90–92; [Doc. No. 74-6] at 16, 24–26. DMV disciplines guards for violations of the company policies, including late arrivals, early departures, failure to enable GPS tracking, and business expenses (each of the foregoing examples may be punished by docking of pay). [Doc. No. 74-10] at 4–5; [Doc. No. 74-1] at 110–117; [Doc. No. 74-12]; [Doc. No. 74-11] (statement by manager that "after the written warning [guards] will not be paid for the shifts that has an inactive GPS").

Plaintiffs filed the Complaint on August 4, 2025, bringing collective action claims under the Fair Labor Standards Act (FLSA) and putative class action claims under the wage and hour laws of multiple states, including the Virginia Wage Payment Act (VWPA), the Virginia Overtime Wage Act (VOWA), and the Virginia misclassification of workers statute, § 40.1-28.7:7. Three opt-in Plaintiffs joined during the discovery period, and more have continued to opt-in after the close of discovery. [Doc. Nos. 47, 51, 52, 76, 105, 106]. Plaintiffs filed the Motion on January 12, 2026, seeking certifications of a class defined as "[a]ll current and former DMV security guards who worked over 40 hours in any workweek since August 4, 2022." [Mot.] at 8.

II. STANDARD OF REVIEW

A) FLSA Collective Action Certification

Pursuant to the FLSA, an employee may bring an action against their employer "on behalf of himself or themselves and other employees similarly situated," but any similarly situated employees must consent to it in writing. 29 U.S.C. § 216(b). FLSA "collective actions" are intended to resolve common issues of law and fact in one proceeding and lower the individual costs of vindicating rights. *See Hoffman-La Roche Inc. v. Sperling*, 493 U.S. 165, 170 (1989).

Under the two-step *Lusardi*, framework, which the Court finds applicable, the plaintiff at either step has the burden of demonstrating that notice is ‘appropriate,’ but the standard varies between the two steps. *Purdham v. Fairfax Cnty. Pub. Schs.*, 629 F. Supp. 2d 544, 548 (E.D. Va. 2009). At the first step (the “notice” step), a plaintiff “need only make a modest factual showing . . . that they and potential [collective action members] together were victims of a common policy or plan that violated the law.” *Choimbol v. Fairfield Resorts, Inc.*, 475 F. Supp. 2d 557, 564 (E.D. Va. 2006).

Under the second step, which in a typical procedural posture is triggered by a defendant’s motion to decertify, courts apply a more rigorous, merits-based analysis to determine whether the plaintiffs are indeed similarly situated. While this standard is more rigorous as to the level of proof which must be shown, the employee-plaintiffs’ situations need not be identical; the inquiry is simply whether “common issues allow[] the class-wide claims to be addressed without becoming bogged down by individual differences among class members. Insubstantial differences in job duties, hours worked and wages due that do not materially affect whether a group of employees may be properly classified are not significant to the similarly situated determination.” *LaFleur v. Dollar Tree Stores, Inc.*, 30 F. Supp. 3d 463, 468 (E.D. Va. 2014) (quoting *Houston et al. v. URS Corp. et al.*, 591 F.Supp.2d 827, 831 (E.D.Va. 2008)) (cleaned up).⁵

B) Rule 23 Class Certification

⁵ Courts typically consider three factors to aid in their analysis at the second *Lusardi* step, including “(1) disparate factual and employment settings of the individual plaintiffs; (2) the various defenses available to defendants that appear to be individual to each plaintiff; and (3) fairness and procedural considerations.” *Hunter v. LaserShip, Inc.*, No. 1:24-CV-02345-AJT-IDD, 2025 WL 1399195, at *3 n. 6 (E.D. Va. May 14, 2025), (quoting *Curtis v. Time Warner Ent.-Advance/Newhouse P'ship*, No. 3:12cv2370, 2013 WL 1874848, at *3 (D.S.C. May 3, 2013)). If, after reviewing these considerations, the court determines that the collective plaintiffs remain “similarly situated,” then the collective action is certified; if they are not, the collective action is decertified. *Choimbol v. Fairfield Resorts, Inc.*, 475 F. Supp. 2d 557, 563 (E.D. Va. 2006).

Federal Rule of Civil Procedure 23 requires that “[a]t an early practicable time after a person sues . . . as a class representative, the [district] court must determine by order whether to certify the action as a class action.” Fed. R. Civ. P. 23(c)(1)(A). For this purpose, “[a] district court has broad discretion in deciding whether to certify a class, but that discretion must be exercised within the framework of Rule 23.” *Thorn v. Jefferson-Pilot Life Ins. Co.*, 445 F.3d 311, 317 (4th Cir. 2006) (quoting *Lienhart v. Dryvit Sys. Inc.*, 255 F.3d 138, 146 (4th Cir. 2001)).

To obtain certification, a movant must first satisfy the enumerated threshold requirements of Rule 23(a): (1) “numerosity”—that the class is so numerous that joinder of all members would be impracticable; (2) “commonality”—that questions of law or fact are common to the class; (3) “typicality”—that the claims or defenses of the representative party are typical of those of the class; and (4) “adequacy”—that the representative party fairly and adequately protect the interests of the class. *See* Fed. R. Civ. P. 23(a); *EQT Prod. Co. v. Adair*, 764 F.3d 347, 357 (4th Cir. 2014) (citation omitted). If the preliminary requirements of Rule 23(a) are satisfied, class certification may be granted if the requirements of the relevant class type under Rule 23(b) are met. Here, Plaintiffs seek to obtain class certification under subdivision (b)(3), which requires, in pertinent part, that “the questions of law or fact common to the class members predominate over any questions affecting only individual members.” Fed. R. Civ. P. 23(b)(3).

III. DISCUSSION

A. Timeliness

As a preliminary matter, Defendants argue that the Motion should be denied as untimely, arguing that it amounts to an improper attempt to modify the Court’s scheduling order ([Doc. No. 20]). While some courts have held that the timing of the Motion may affect the analysis under the *Lusardi* framework, it is not an independent basis for outright denial of the Motion. And given the

total record, particularly including the substance of the proceedings before the Magistrate Judge, the Court cannot find that Plaintiffs' Motion is timely.⁶

B. FLSA Collective Certification

The parties agree that the *Lusardi* framework applies but disagree as to whether at this stage of the proceedings the Court should apply the more lenient first-step "notice" standard applies or, as Defendants argue, in light of the discovery already completed, the second step's more stringent "merits" standard. As mentioned above, the parties anticipated that a Motion would be filed at this time, and while recognizing, as it has in the past, that "District courts within the Fourth Circuit are divided as to whether a higher standard should be used at the conditional certification stage when some discovery has been completed[.]" *Meeker v. Med. Transp., LLC*, No. 2:14-CV-426, 2015 WL 1518919, at *2 (E.D. Va. Apr. 1, 2015), the Court will apply a step one standard at this time, while preserving Defendants' ability to file for decertification; and after applying that step-one standard finds, as described below, that Plaintiffs have made the necessary showing for step one notice.

At the first *Lusardi* step, Plaintiffs "need only make a modest factual showing . . . that they and potential [collective action members] together were victims of a common policy or plan that violated the law." *Choimbol*, 475 F. Supp. 2d at 564. Plaintiffs have shown, based on Defendant Vladic's deposition testimony [Doc. No. 74-1], an analysis of DMV's payroll data [Doc. No. 74-2], correspondence between guards and managers (and solely between managers) [Doc. Nos. 74-11, 74-12, 74-14], and charts excerpted from or summarizing DMV's payroll data [Doc. Nos. 74-

⁶ While the Magistrate Judge declined to set a date for the filing of a certification motion, Defendants do not contend that either side reasonably expected that a motion for conditional certification would be made, briefed, granted, and the notice period elapsed all before the discovery cutoff as it was initially set; and post certification discovery has been adopted in this District and others in FLSA collective actions. *See, e.g., LaserShip*, No. 1:24-CV-02345-AJT-IDD, Doc. No. 209 (E.D. Va. Jan. 16, 2026) (adopting plan for second-phase opt-in discovery).

17, 74-23], that the purported class members perform substantially the same job functions,⁷ all signed ICA's and were subject to the policies in the ICH, all work in the broader DC metropolitan area ([Mot.] at 23–24), all were supervised via site visits and tracking via the Novagems app, and all received largely similar pay, even with some differences, as Defendant Vladic stated in his deposition. [Doc. No. 741] at 66–69; [Doc. No. 74-15].⁸ Plaintiffs also introduce evidence of unlawful policies or practices: namely that DMV unlawfully withholds overtime pay based on its misclassification of its guards and refuses to pay for hours in excess of their scheduled shifts when they worked longer than anticipated. [Mot.] at 13; [Doc. No. 74-1] at 66–67, 152. The foregoing clearly constitutes the “modest factual showing” required for conditional certification.

Defendants contend that conditional certification should be denied based on the following six *Silk* factors (none of which are individually dispositive) bearing on whether the parties have an employer-employee or independent contractor relationship: “(1) the degree of control the putative employer has over the manner in which the work is performed; (2) the worker’s opportunities for profit or loss dependent on his managerial skill; (3) the worker’s investment in equipment or material, or his employment of other workers; (4) the degree of skill required for the work; (5) the permanence of the working relationship; and (6) the degree to which the services rendered are an integral part of the putative employer’s business.” *Schultz v. Capital Int’l Sec.*, 466 F.3d 298, 304-05 (4th Cir. 2006); see also *United States v. Silk*, 331 U.S. 704 (1947). They point to, *inter alia*, Plaintiffs’ purported flexibility to schedule their own shifts and the short duration of many of their terms of employment. [Opp.] at 11-13. Whether the *Silk* economic realities factors are appropriate to consider under a step one *Lusardi* standard is debatable, but, in any event, nothing in the present

⁷Namely, to “monitor premises to prevent theft, violence, vandalism, or infractions of rules.” *Id.* at 70–71; [Ex. 9]; [Doc. No. 74-5] at 56.

⁸ Defendants contend that none of these similarities apply but in support of that position point to only one putative opt-in who is a supervisor. [Defense Ex. F] at P24L1-4.

record is at this point sufficient to rebut the Plaintiffs’ step one showing that “ they and potential [collective action members] together were victims of a common policy or plan that violated the law.” *Choimbol at 564*.⁹

For these reasons, Plaintiffs have made the required showing for Notice under step one of the *Lusardi* framework and the Court will conditionally certify an opt-in class under the FLSA.

C. Rule 23 Class Certification

In addition to the FLSA collective certification, Plaintiffs seek certification of a Rule 23 class for their non-FLSA claims, based on the same class definition as their FLSA collective.¹⁰

Relying on Rule 23’s directive that class certification be sought “[a]t an early practicable time after a person sues . . . as a class representative,” Fed. R. Civ. P. 23(c)(1)(A), Defendants first argue, as they did with respect to FLSA conditional certification, that the motion to certify a class under Rule 23 is untimely. Rule 23 does not set any deadlines for the filing for class certification and courts within the Fourth Circuit have granted certification motions filed further into a litigation schedule than in this case, *see, e.g., Buchanan v. Consol. Stores Corp.*, 217 F.R.D. 178, 186 (D. Md. 2003) (motion filed three years after complaint and after close of discovery). The Court again finds Defendants’ position unavailing, particularly since unlike an FLSA collective class, Rule 23 class members need not opt-in during the pendency of the litigation.

⁹ For example, as reflected in Defendant Vldic’s deposition testimony, once assigned to a client, a guard’s schedule is fairly inflexible, and Defendants do not and cannot contend that there was a fixed period to any of their guards’ employment.

¹⁰ This Court has previously certified parallel classes under this “hybrid” posture. *See Midkiff v. Anthem Companies, Inc.*, 748 F. Supp. 3d 376, 389 (E.D. Va. 2024) (“Conditional certification of an FLSA collective does not preclude the Court from certifying a class in the same case”); as have other district courts in this circuit. *Calderon v. GEICO Gen. Ins. Co.*, 279 F.R.D. 337, 342 (D. Md. 2012) (“[T]here is no conflict in allowing FLSA and Rule 23 classes to proceed together”); *see also Carter v. MV Transp. Inc.*, 09-cv-527, 2011 U.S. Dist. LEXIS 153286 at *4-5 (D. Md. February 14, 2012); *McLaurin v. Prestage Foods, Inc.*, 271 F.R.D. 465, 474 (E.D.N.C. 2010).

The Court also finds that Plaintiffs have met the Rule 23(a) requirements, namely (1) “numerosity”—that the class is so numerous that joinder of all members would be impracticable; (2) “commonality”—that questions of law or fact are common to the class; (3) “typicality”—that the claims or defenses of the representative party are typical of those of the class; and (4) “adequacy”—that the representative party fairly and adequately protect the interests of the class. *See EQT Prod. Co. v. Adair*, 764 F.3d 347, 357 (4th Cir. 2014) (citation omitted). Plaintiffs, without challenge by the Defendants, have made an adequate showing for the “typicality” and the “adequacy” requirements.

As to both the numerosity requirement and whether the class members are readily identifiable, Plaintiffs have introduced a declaration from the data scientist who analyzed DMV’s payroll records, stating that those records reflect at least 192 security guards who worked one or more 40+ hour weeks during the class period ([Doc. No. 74-2] ¶ 9(b)); *see also* [Doc. No. 74-21]. Defendants do not challenge the accuracy of either of these records or Plaintiffs’ analysis, except to argue that these figures may include unpaid mealtimes or that some Plaintiffs may have clocked in early or out late, and that an accurate verification of who worked 40+ hours would require analysis and testimony by Defendant Vladic to determine “the specifics of that individuals [sic] work assignment during each specific pay period.”¹¹ [Opp.] at 15. None of these issues is likely to affect the number of class members to an extent that would fatally compromise the Plaintiffs’ satisfaction of the numerosity requirement, nor would Defendants’ proposed analysis of work assignments be so complex as to render the class not ascertainable. On this basis, the Court concludes that the class members are both readily identifiable and sufficiently numerous that

¹¹ Defendants also point to the relatively low number of opt-ins to support their contention that numerosity is not satisfied but Rule 23 classes proceed on an opt-out basis, and the current number of opt-in Plaintiffs says little about the number of members in class for the purposes of Rule 23.

joinder of all 192 potential class members is impractical. *L.N.P. v. Dudek*, No. 1:24-cv-01196-MSN-IDD, 2025 U.S. Dist. LEXIS 103452, at *7 (E.D. Va. May 30, 2025) (“[C]lasses of at least forty members are large enough to satisfy the numerosity requirement”).

As to both the 23(a) commonality and 23(b)(3) predominance requirements, each of Plaintiffs’ claims is based on the same small number of issues: (1) whether Defendants misclassified the guards; (2) whether Defendants paid the guards for all hours worked plus applicable overtime premiums; and (3) the amount of damages. While, as Plaintiffs concede, there are some differences between the requirements of the various states’ laws, those differences are not sufficiently material to refute commonality. *See Langan v. Johnson & Johnson Consumer Cos.*, 897 F.3d 88, 97 (2d Cir. 2018) (holding that even “[v]ariations in state laws do not necessarily prevent a class from satisfying the predominance requirement”).

Based on the foregoing, Plaintiffs have met the requirements for certification of a Rule 23 class on their non-FLSA claims.

D. Notice Procedures

Under Rule 23(c)(2)(B), “the court must direct to class members the best notice practicable under the circumstances” when a class is certified under Rule 23(b)(3). This notice should go to all individual members who can be reasonably identified, and may go out through mail, electronic means, or other appropriate means. Fed. R. Civ. P. 23(c)(2)(B). Plaintiffs request that the Court approve their proposed notice procedures by which: (1) notice will go out first via First Class Mail, Email, and Text Message, (2) would be held open for a 60-day notice and opt-in period, with (3) reminder notice midway through the notice period, and (4) the Court would authorize Plaintiffs to

conduct skip tracing.¹² They submit proposed notice forms for Court’s approval. [Doc. Nos. 74-18, 74-19, 74-20]. Although the requirements for class- and collective-action notice differ somewhat, Plaintiffs seek combined notice procedures based on efficiency. [Mot.] at 35.

Defendants object to several of Plaintiffs’ notice-related requests.¹³ First, they claim that a reminder notice, which would constitute Plaintiffs’ fourth contact with potential class members, would amount to badgering. [Opp.] at 23. There is no unfair prejudice to Defendants from such a reminder; and Plaintiffs agree that their reminder will be via email and not through the other two means of correspondence proposed for the initial notice.

Defendants next object to any further discovery in conjunction with the notice and opt-in process, including discovery to facilitate skip-tracing as well as Plaintiffs’ request (as clarified in their reply) that Defendants provide certain identification and contact information for new employees who joined since the prior discovery request in November 2025. [Opp.] at 21–24; [Reply] at 24–25. Providing recent-employee information is not unduly burdensome for Defendants and should be provided. Likewise, Defendants should provide any information they have relevant to skip tracing unless shown to be unduly burdensome.¹⁴

¹² Skip tracing refers to a process by which Plaintiffs may track the location of a potential opt-in plaintiff when notice to that potential Plaintiff is undeliverable, in which event a potential Plaintiff’s date of birth and the last four digits of Social Security Numbers are used to assist with location efforts so that notice can be re-issued.

¹³ In response to Defendants’ initial objections to Plaintiffs’ initial proposed Notice procedures, Plaintiffs provided a revised notice form that adopts many of Defendants’ suggested changes. [Exh. 22].

¹⁴ Defendants do not object to the use of skip tracing in general, but do object to further discovery to aid of Plaintiffs’ utilizing skip tracing. In that regard, Defendants contend that they have provided the specific information requested by Plaintiffs and “have no means to provide anything more.” [Opp.] at 23. Given Defendants’ representations, this requirement would appear to have no impact nor cause any burden on the Defendants.

IV. CONCLUSION

For the reasons stated above, it is hereby:

ORDERED that the Motion [Doc. No. 73] be, and the same hereby is, **GRANTED**, and an FLSA Collective is hereby conditionally certified and a Rule 23 class certified according to the definitions in the Motion; and it is further


ORDERED that the parties shall proceed according to the Notice procedures outlined in the Motion, as subsequently modified by the Plaintiffs. If any disputes arise regarding the Notice procedures or opt-in discovery, the parties are directed to the Magistrate Judge for resolution of such disputes; and it is further

ORDERED that Plaintiff's Motion to Amend/Correct Court Order [Doc. No. 87] is **GRANTED** and Defendant Jovan Vladic is reinstated as a party Defendant as to the non-VWPA claims; and it is further

ORDERED that the parties appear for a status conference on April 8, 2026 at 10:00 a.m. to address, *inter alia*, the briefing schedule for a potential motion for decertification.

The Clerk is directed to forward copies of this order to all counsel of record.

Alexandria, Virginia
March 26, 2026



/s/
Anthony J. Trenga
Senior U.S. District Judge