UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

JONATHAN RANGEL, individually and on behalf of all other similarly situated persons,

Plaintiffs,

vs.

DMV PROTECTION, LLC and JOVAN VLADIC

Defendants.

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

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO COMPEL DISCOVERY

INTRODUCTION

Plaintiffs are security guards employed by Defendants to provide security services for a variety of clients. See Compl. Dkt. 1 ¶ 32-33. Plaintiffs bring class and Fair Labor Standards Act (FLSA) collective action claims for failure to: (1) pay overtime wages in violation of the FLSA and Virginia, Maryland and Washington, D.C. wage and hour laws; (2) pay for all time worked in violation of Virginia, Maryland and Washington, D.C. wage payment laws; and (3) properly classify Plaintiffs as employees under the Virginia misclassification law, Va. Code Ann. § 40.1-28.7:7. These claims stem from Defendants' misclassification of their security guards as independent contractors. Plaintiffs have pleaded both a collective action under the FLSA and a Rule 23 class.

Two days before the Court's initial conference – September 22, 2025 – Plaintiffs served Defendants with document and interrogatory requests. Dunn Dec. ¶ 3; Ex. 1. Fifteen days passed and Defendants did not serve any objections. *Id.* at ¶ 4. A few days after the 15-day deadline, Defendants emailed Plaintiffs that they would "need to request a 30-day extension" for discovery due to their client's unavailability. *Id.* at ¶ 7. Plaintiffs responded that they would not consent to a 30-day extension at that time but were open to a compromise. *Id.* Defendants did not respond. The Court granted Defendants a five-day extension, allowing Defendants to "file their responses to Plaintiff's First Set of Interrogatories and First Requests for Production of Documents on or before October 27, 2025." Dkt. 27. When Defendants produced documents, they included objections to nearly all requests and interrogatories. Ex. 3. Defendants did not request an extension, and the Court's Order did not extend the 15-day objection deadline.

Plaintiffs' discovery requests are targeted at the wage and hour issues in this case. They include discovery concerning: Defendants' wage and hour policies and practices; information about other security guards; Defendants' potential defenses, including any good faith defense to

liquidated damages; whether DMV is subject to the FLSA; and potential witnesses. Defendants produced discovery concerning the Named Plaintiff and unsigned independent contractor agreements for DMV's supervisor Corey Ford, Director of Operations Milos Nikolic, and Fleet Manager/Supervisor Nathan Fatiga, but nothing more. Dunn Dec. ¶ 5.

After reviewing Defendants' discovery production, Plaintiffs promptly sought to meet and confer because the production was woefully deficient. The day after receiving Defendants' production, Plaintiffs' Counsel called Defense Counsel because they did not respond to an email request for a time to meet and confer. Ex. 6. During the call, the parties were able to resolve some minor issues, such as the production of a privilege log. However, Defendants' Counsel largely refused to engage in a good faith meet and confer. Ex. 7. Plaintiffs attempted to address Defendants' objections in search of a resolution, but Defense counsel stated that they would stand on their objections and any issues should be addressed in the motion to compel. *Id.* After approximately 20 minutes, Defense Counsel refused to continue the meet and confer and hung up the phone. Dunn Dec. ¶ 9; Ex. 7. Because parties were unable to resolve the disputes before Defense counsel abruptly ended the meet and confer, Plaintiffs seek to compel nine categories of discovery.

ARGUMENT

A. Defendants' Objections to Discovery Should Be Rejected as Late and Improper

Unfortunately, Defendants' decision to disregard this Court's rules are not surprising. Defendants failed to appropriately notice or waive hearing of both their motions.[1] Defendants did

[1] For their motion to dismiss, Defendants did not notice the motion for hearing and did not confer with Plaintiffs to coordinate waiver until after being prompted by this Court to take action. For their motion for extension, Defendants waived argument without arranging or even consulting with Plaintiffs as required by Local Civil Rule 7(E).

not meet and confer with Plaintiffs before filing their Motion for Extension. Dkt. 26. Now, Defendants have continued this pattern by failing to timely object to Plaintiffs' discovery requests, refusing to produce responsive discovery, and submitting only boilerplate objections without the required specificity.

1. Defendants Waived All Objections by Failing to Timely Object

The Local Rules state that "[u]nless otherwise ordered by the Court, an objection to any interrogatory, request, or application under Fed. R. Civ. P. 26 through 37, shall be served within fifteen (15) days after the service of the interrogatories, request, or application." Local Civ. R. 26(C). The Federal Rules of Civil Procedure and this District require timely objections to discovery requests. Fed. R. Civ. P. 33(b)(4); *Steele v. Goodman*, 3:21-CV-573, 2023 U.S. Dist. LEXIS 174271, at *2 (E.D. Va. 2023) (refusing to grant Defendant leave to object where they did not abide by the 15-day deadline and the Court found no excusable neglect). When a party fails to timely object to discovery, an appropriate remedy is the waiver of any objections and an order to produce responsive discovery. *Johnson v. Equityexperts.Org, LLC*, 3:19-CV-243-JAG, 2019 U.S. Dist. LEXIS 247959, at *5 (E.D. Va. 2019) (stating "[f]ailure to object on time or with enough specificity may waive the objection").

Here, Defendants served Plaintiffs with objections 20 days after the deadline. Plaintiffs served Defendants with the subject interrogatories and requests for document production on September 22, 2025. Dunn Dec. ¶ 3. Defendants did not object until they served Plaintiffs with their responses on October 27, 2025. Ex. 3. Defendants did not seek to extend their time to object, nor did they ask this Court to excuse their failure to comply with the timeliness requirement of the Local Rules. Because Defendants' objections were late, and Defendants have not demonstrated excusable neglect because they have not sought relief at all for their untimely

objections, their objections should all be deemed waived. *Steele*, 2023 U.S. Dist. LEXIS 174271, at *2.

Thus, the Court should order Defendants to provide response to all of Plaintiffs' discovery requests.

2. The Court Should Disregard Defendants' Boilerplate Objections Because They Are Not Adequately Specific

Even if the Court were to allow Defendants untimely objections, the objections violate both the Local Civil Rules and the Federal Rules of Civil Procedure because they lack specificity. Fed. R. Civ. P. 33(b)(4); Fed. R. Civ. P. 34(b)(2)(B)-(C); Local Civ. R. 26(C) ("Any such objection shall be specifically stated."). When objecting, "[T]he burden is on the party resisting production to show 'specifically how, despite the broad and liberal construction afforded the federal discovery rules, each interrogatory is not relevant.'" *Cappetta v. GC Servs. Ltd. P'ship*, 3:08-CV-288, 2008 U.S. Dist. LEXIS 103902, at *7 (E.D. Va. 2008) (internal citations omitted). It is insufficient to "merely stat[e] that a discovery request is 'overbroad' or 'unduly burdensome.'" *Id* at *9. If claiming a request or interrogatory is overbroad, the objecting party must "specify which part of a request is overbroad, and why," *Id* at *11. Similarly, if claiming a request or interrogatory is unduly burdensome, the objecting party must "submit affidavits or other evidence indicating with specificity the nature and extent of the burden." *Id* at *10. "Failure to make 'specific legitimate objections to particular interrogatories [or requests for production] within the time allowed' may result in a court deeming any objections waived." *Id* at *8 (internal citations omitted).

Like in *Cappetta*, Defendants here object to at least 25 interrogatories and requests for document production by simply stating that the requests are "overbroad," "unduly burdensome," "not reasonably calculated to lead to discovery of admissible evidence," and "lack relevance."

Ex. 2, Interrogatories 1-6, 10, 12-15; Requests for Document Production 7, 11, 13, 15, 20-24, 28, 30-31, 33-34. Defendants do not provide any explanation or substantiate their objections. For objections based on overbreadth, Defendants simply state that requests/interrogatories are "overly broad" or "overly broad in scope" without further explanation. See Interrogatories 5, 6, 10, 14, 15; Requests for Document Production 11, 13, 23, 31, 33, 34. The objections do not state which part of the requests they are alleging are overly broad, or why. See *Cappetta*, 2008 U.S. Dist. LEXIS 103902 at *11. For objections based on undue burden, they again merely assert that the interrogatories or requests are "unduly burdensome" or "seek[] to force an unduly burdensome response." Interrogatories 4, 15; Requests for Document Production 7, 11, 13, 31, 33, 34. Defendants do not offer any further explanation as to what makes the requests or interrogatories burdensome, let alone provide a supportive affidavit or other evidentiary support. See *Cappetta*, 2008 U.S. Dist. LEXIS 103902 at *10.

Similarly, objections stating that the requests are "not reasonably calculated to lead to discovery of admissible evidence," are given no further explanation. Requests for Document Production 11, 15, 20-24, 28, 30, 34. This is an outdated standard for discoverable matter. Federal Rule of Civil Procedure 26(b) was amended in 2015 "to provide that any nonprivileged matter is discoverable if it 'is relevant to any party's claim or defense and proportional to the needs of the case . . ." *Ashghari-Kamrani v. United Servs. Auto. Ass'n*, 2:15-CV-478, 2016 U.S. Dist. LEXIS 197601, at *13 (E.D. Va. 2016) (citing Fed. R. Civ. P. 26(b)). Objections asserting that Plaintiffs' requests or interrogatories "lack relevance" are likewise unsubstantiated. See Interrogatories 1-5, 12, 13; Request for Document Production 13. This does not satisfy Defendants' burden of demonstrating specifically how the interrogatories and requests are not relevant. See *Cappetta*, 2008 U.S. Dist. LEXIS 103902, at *7.

Thus, the Court should disregard Defendants' objections, and order Defendants to respond to Plaintiffs' discovery requests.

B. Defendants Should Immediately Produce Responsive Discovery

Generally, a party may secure discovery "regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). Relevance is "broadly construed to encompass any possibility that the information sought may be relevant to the claim or defense of any party." *Pecos River Talc LLC v. Emory*, 4:24-CV-75, 2025 U.S. Dist. LEXIS 129703, at *8 (E.D. Va. July 8, 2025) quoting *Equal Emp't Opportunity Comm'n v. Sheffield Fin., LLC,* 1:06-cv-889, 2007 U.S. Dist. LEXIS 43070, 2007 WL 1726560, at *3 (M.D.N.C. June 13, 2007) (other cites omitted).

As addressed below, Plaintiffs ask the Court to order Defendants to produce the discovery within seven days. Time is of the essence because Plaintiffs noticed depositions starting on November 18, 2025, and discovery is set to close by January 9, 2026.

1. Defendants Have Failed to Properly Attest to the Interrogatory Answers as Required by Federal Rule of Civil Procedure 33(b)(3)

Under Federal Rule of Civil Procedure 33(b)(3) "[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath." When an attorney responds to interrogatories on behalf of a corporate client but "no oath, affirmation, or verification accompan[ies] the signature," the interrogatories do not meet the requirements of Federal Rule of Civil Procedure 33. See *Wood v. Credit One Bank*, 277 F. Supp. 3d 821, 831-32 (E.D. Va. 2017). In *Wood*, the Court declined to allow the violating party to subsequently remedy the lack of verification because, as is the case here, 1) the offending party did not file a motion seeking relief and 2) there was no procedural or substantive law allowing for late verification. Here, counsel for Defendants signed the interrogatory but did not provide the necessary

verification. Ex. 3, p. 9. Thus, Defendants should comply with the Federal Rules and provide a sworn verification.

2. Defendants Should Produce Discovery Concerning the Putative Class and Collective Members

Plaintiffs seek discovery to support their forthcoming Rule 23 class and FLSA collective action motions. In class actions, plaintiffs are "entitled to pre-certification discovery to establish the record the court needs to determine whether the requirements for class action suit have been met." *Fangman v. Genuine Title, LLC*, RDB-14-0081, 2015 U.S. Dist. LEXIS 167288, at *12 (D. Md. 2015) (internal citations omitted). Similarly, Plaintiffs are entitled to discovery of the putative FLSA collective. Such discovery has been approved by this Circuit. See *Doctor v. Seaboard Coast Line Railroad Co.*, 540 F.2d 699, 707 n. 25 (4th Cir. 1976) (approving pre-certification discovery to establish whether a class action was maintainable). Because "Plaintiff[s] must affirmatively demonstrate, using 'evidentiary proof'" the requirements for class action, pre-certification discovery pertaining to the maintainability of a class is proper. See *Haley v. FRC Balance LLC*, 1:23-CV-666 (DJN), 2024 U.S. Dist. LEXIS 94607, at *2, 5-6 (E.D. Va. 2024) (holding that the magistrate judge "did clearly err by unduly constraining Plaintiff's ability to obtain discovery relevant to class certification" while not disturbing the magistrate's decision to allow discovery related to collective action certification); see also *Chapman v. Saber Healthcare Grp., LLC*, 2:20-CV-106, 2021 U.S. Dist. LEXIS 273960, at *4-5 (E.D. Va. Sep. 10, 2021) (ordering Defendants to produce job descriptions, policies and practices regarding timekeeping and payment, and a list of putative collective members employed by party facilities pre-certification or filing of motion for conditional certification); *Gray v. Walbridge Aldinger, LLC*, 2:23-CV-1672, 2024 U.S. Dist. LEXIS 169416, at *2 (E.D. Mich. Sep. 19, 2024) (noting

magistrate judge ordered production of wage and hour records for FLSA putative collective action members pre-certification).

Here, Plaintiffs have requested production of information related to the certification of a FLSA collective and a Rule 23 class.

- Interrogatories 1, 2, and 4 seek information about the putative class and collective members, including: the identity of other security guards who worked for DMV and their start and stop dates; the number of security guards who worked in Washington, D.C., Virginia, and Maryland; and the number of security guards DMV classified as an independent contractor.
- Interrogatory 3 seeks how DMV calculated Security Guards' pay for hours worked over 40 in a workweek.
- Interrogatory 5 seeks information about witnesses who may have supervised DMV's Security Guards.
- Requests for Document Production 1-4, 6-8, and 12-14 similarly request documents that would demonstrate the existence of putative class and collective members and the relevant polices and practices to which they were subject.

Information on job descriptions, policies and practices regarding timekeeping and payment, and lists of putative collective members are appropriate pre-certification discovery, especially given the short amount time to complete discovery. *Chapman*, 2021 U.S. Dist. LEXIS 273960, at *4-5.

Plaintiffs also ask the Court to order Defendants to produce the class and collective wage and hour data in native format where applicable, such as .csv or Excel files. Plaintiffs' document demand instructions required production of discovery in native format. Ex. 1, p. 4, § II(B) (Format of Production).[2] Plaintiffs also emailed Defense Counsel on October 23 stating "We're

[2] The instruction states: "ESI shall be produced in its native format, or if such information is kept in a proprietary format, it shall be produced where possible in a form readable, searchable and manipulable by off-the-shelf software. If compliance with these terms is not possible, Defendants shall confer with Plaintiffs' counsel prior to production to discuss the format of production."

expecting to receive the class-wide wage and hour data in .csv or Excel format. If you need our assistance with that or need to discuss further, we're available today." Ex. 4. But Defense Counsel did not respond. According to the management software that Defendant uses — Novagems — Defendants are capable of producing the wage and hour data in electronic format. Ex. 9.[3] Thus, the Court should order Defendants to produce the class and collective wage and hour data, including time records and DARs/tour duty reports in .csv or Excel format.

3. Defendant Should Produce Discovery Related to Any Affirmative Defenses, Including Any Good Faith Defense to FLSA Liquidated Damages

Plaintiffs seek discovery concerning Defendants' defenses to the wage and hour claims. Because Defendants have not answered the complaint, Plaintiffs do not know what defenses Defendants will assert. And because Defendants did not produce any responsive documents or interrogatory answers regarding its defenses, Plaintiffs are still in the dark. Discovery is necessary to evaluate Defendants' defenses, their basis for denying workers the wage protections under the law, and whether Defendants' acts were in good faith. *Scalia v. Med. Staffing of Am., LLC*, 2020 U.S. Dist. LEXIS 263091, at *10 (E.D. Va. June 11, 2020) (ordering production of: 1: policy memoranda, employee notices and memos, and other documents concerning Defendants' pay policies because it may be "relevant to Defendants' understanding and interpretation of its obligations under the FLSA;" and 2: "all attorney-client communications regarding their decision to classify the health care workers as independent contractors and the propriety of that decision, id., any such documents must be produced.").

The documents and information Plaintiffs seek include:

[3] Novagem's website indicates that time data can be exported in .csv format.

- Information Defendants sought or received about their wage and hour obligations under federal and state law, and their understanding of the various wage and hour laws. Doc. Nos. 15, 19, 23, and 24; Interrogatory Nos. 8, 9, and 11.

- Documents or information about Defendants' decision to classify security guards as independent contractors and not pay overtime wages. Doc. No. 16 , 19; Interrogatory Nos. 8, 9, and 11.

- Complaints about the non-payment of overtime wages or the classification as independent contractors, Doc. No. 20

- Defendants' basis for classifying security guards as independent contractors, not paying them overtime premium pay, and not paying them for all hours worked. Doc. No. 19.

- Any documents concerning Defendants' affirmative defenses. Doc. Nos. 17, 18

- Prior wage and hour litigation or proceedings against DMV. Doc. No. 21.

- Communications with any governmental entities regarding the FLSA or state/Washington, D.C. wage and hour laws. Doc. No. 22

This discovery is also likely relevant to whether security guards should have been classified as employees because it will contain facts about the independent contractor test under the FLSA and applicable state laws. Finally, it is unclear if Defendants searched their emails, computers, or any other devices or locations for responsive discovery.

Thus, the Defendants should be compelled to produce discovery concerning their defenses.

4. Plaintiffs Need a Date Certain for Outstanding Document Production, and Production Is Needed Before Depositions

Defendants represented in 11 responses that they would produce documents. Doc. No. 1-5, 8, 10, 12, 14, 27, 32. But they did not indicate whether the production was complete or when they would produce the remaining documents. Thus, Plaintiffs request that the Court order Defendants to complete their production by November 10, 2025 – which is eight days before the first noticed deposition.

5. Defendants Should Identify DMV's "Members"

Defendants represented that DMV's "members" reviewed and approved various company polices. Ex. 3, p. 5, response to interrogatories 8 and 9. During the Parties' meet and confer, Plaintiffs asked Defense Counsel to identify the names of the members, but Mr. Sitz did not know. Plaintiffs then followed up in an email asking Defendants to identify the members, but Defendants did not respond. Thus, Plaintiffs request the Court order Defendants to identify the names and positions of the "members."

6. Defendants Should Produce Documents about Whether DMV Is Subject to the FLSA

Plaintiffs seek documents about whether DMV is an enterprise engaged in commerce for the purposes of the FLSA. Ex. 1, Doc. No. 11; 29 U.S.C. § 203(s)(1). This evidence is necessary to show that DMV is subject to the FLSA and thus must comply with its overtime pay requirements. 29 U.S.C.S. § 207(a). Without it, Plaintiffs may be unable to prove their FLSA claims. Documents Plaintiffs seek include: tax records, statement of revenue and expenses, and any other documents that show their income for the past five years. *Rains v. E. Coast Towing & Storage, LLC*, 820 F. Supp. 2d 743, 749 (E.D. Va. 2011) (summary judgment decision court evaluated tax returns, and statement of revenue to assess whether defendants were subject to the FLSA's requirements). Further, Plaintiffs proposed – like many defendants agree to – that DMV stipulate that it is subject to the FLSA and thus it may avoid producing responsive discovery. But Defendants refused. Thus, the Court should order Defendants to produce responsive documents.

7. Defendants Should Produce Discovery about the Benefits DMV Provides to Employees

Plaintiffs seek discovery concerning the pay and other benefits that Defendants provide to their employees. Ex. 2, Interrogatory 3; Ex. 1, Doc. Nos. 2, 12-14, 16, 33. This information is

necessary to prove damages under Virginia's misclassification law. Va. Code Ann. § 40.1-28.7:7(A) (employees who are misclassified under the Virginia Misclassification law are entitled to lost wages or other benefits or compensation that they would have been entitled to); *Torres v. Manganaro Midatlantic, LLC*, 3:24-CV-343 (RCY), 2025 U.S. Dist. LEXIS 549, at *4 (E.D. Va. Jan. 2, 2025) (compelling discovery of benefits defendant provided to employees because it is relevant to damages under the Virginia Misclassification law.). Thus, Defendants should be ordered to produce responsive discovery.

8. Defendants Should Produce Documents about DMV's Business Organization

Plaintiffs seek documents concerning DMV's organizational structure or list of employees and owners. Ex. 1, Doc. No. 34. Information regarding DMV's corporate structure and organization are relevant to understanding the roles of DMV's various positions and the extent of the owners' and upper management's responsibilities and internal reporting structure involving supervisors. The documents are relevant to show who had or should have had knowledge about the work Plaintiffs performed, the hours they worked, and the supervision they received. This is also relevant to Defendants' FLSA misclassification of their security guards as independent contractors, and the ability of DMV to exert control over its security guards. *Randolph v. PowerComm Const., Inc.*, 309 F.R.D. 349, 357 (D. Md. 2015) (the control factor under the FLSA independent contractor analysis is satisfied if "the putative employer sets the workers' schedules, directs them to particular work sites, requires them to fill out time sheets, and can fire them at will."); *Perez v. Ocean View Seafood Rest., Inc.*, 217 F. Supp. 3d 868, 878-879 (D.S.C. 2016) (evidence of authority to hire and fire supports a finding of an employment relationship for FLSA purposes). It will also enable a more efficient deposition of DMV and its witnesses.

9. Defendants Should Identify Text Message Authors

DMV produced text messages with the Named Plaintiff. Other than identifying the Named Plaintiffs, the messages do not indicate who else is involved in the communications. Ex. 8. Plaintiffs ask that the Court order Defendants to identify the person or people.

CONCLUSION

For the foregoing reasons, the Court should Order the Defendants to provide class/collective-wide data and information and discovery responses to Interrogatories 1-6, 8-9, 11 and 14 and Requests for Document Production 1-7, 10-24, 27, 30, and 32-34 by October 11, 2025.

Dated: October 31, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2025, I filed the foregoing with the Court's ECF system which will send electronic notice of the same to all counsel of record.

/s/Timothy Coffield

CERTIFICATION OF GOOD FAITH MEET AND CONFER

I hereby certify that Plaintiffs' Counsel has in good faith attempted to confer with Defendants' Counsel on the discovery disputes addressed herein in an effort to obtain the discovery without court action, as required by Federal Rule of Civil Procedure 37(a)(1) and Local Civil Rule 37(E). Facts about those meet and confer effects are detailed in my declaration.

/s/ Matt Dunn