UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

JONATHAN RANGEL, individually and on behalf of all other similarly situated persons, Plaintiffs, v. DMV PROTECTION, LLC and JOVAN VLADIC, Defendants.	Case No. 1:25-cv-01288

INTRODUCTION

Defendants' motion to stay class and collective discovery is an untimely and insufficient attempt to object to Plaintiffs' discovery requests and preclude Plaintiffs from completing their discovery before the deadline. Defendants' motion fails to establish good cause to modify the scheduling order and is fatal for several reasons. First, the objection to class discovery is untimely. Second, the scheduling order and the proposed discovery plan permit class and collective discovery. Third, Defendants rely on an out-of-circuit decision that is inapplicable to the facts of this case. Fourth, class and collective discovery is proper. Fifth, given that discovery ends in approximately two months and Defendants have not sought a stay of discovery with the District Judge, a stay at this late time would prejudice Plaintiffs. Thus, Plaintiffs ask that the Court not disturb the current discovery scheduling order and deny Defendants' motion.

ARGUMENT

I. Defendants' Motion to Stay Is Untimely

Defendants' motion to stay class and collective discovery is yet another attempt to object to Plaintiffs' discovery requests beyond this District's deadlines. Plaintiffs address the issue of

timeliness at length in their memorandum of law in support of their motion to compel discovery, Dkt. 29, PageID# 136-138, and will not reiterate those arguments at length here. Briefly, the Local Rules require that objections to discovery requests be made within 15 days of the requests' service upon the objecting party. Local Civ. R. 26(C). This Court reiterated this requirement in its Scheduling Order. Dkt. 20, ¶ 14. Plaintiffs served Defendants with their discovery requests; and Defendants did not object until long after the 15-day deadline and did not seek the Court's relief in extending that deadline. Defendants' objections largely rested on the same faulty premise that they put forth in this motion – that Plaintiffs are not entitled to pre-certification discovery related to the putative class or collective. Thus, Defendants waived their objection.

II. Neither the Discovery Plan nor the Scheduling Order Limit Discovery to the Named Plaintiff

Defendants mischaracterize the language and substance of the Parties' proposed Discovery Plan. In their motion, Defendants state that Discovery Plan "stipulated that the Defendants would only turn over the information about the Plaintiff, until and unless a collective or class action was certified." That is blatantly false. Defendants' excerpt is from the Alternative Dispute Resolution section regarding Defendants' agreement to promptly produce wage and hour records in order to facilitate settlement discussions.[1] This provision does not purport, nor was it intended, to limit general discovery in any way.

Defendants also splice a clause from a separate section of the Discovery Plan – Section V: Class and Collective Action – onto their contention. Defs' Mtn., Dkt. 32 at ⁋ 9. The cited provision from Section V of the Discovery Plan, "Depending on the outcome of the motion, [. . .] the parties may confer regarding proposed amendments to the schedule," again states nothing

[1] Defendants did not comply with the production timeline set forth in the cited provision. They did not produce the wage and hour information related to the Named Plaintiff until October 27, 2025 – 41 days after the cited stipulation.

about limitation on discoverable information. Dkt. 17, § V, p. 5. Section V explains that the case has been filed as a class and collective action, that Plaintiffs anticipate filing motions for conditional certification under the FLSA and class certification, and that the parties may subsequently contemplate proposed amendments to the discovery schedule as a result. *Id.* Defendants' apparent argument that pre-certification class and collective discovery is prohibited by the Discovery Plan is unsupported.

In contrast, the Parties' Discovery Plan presumes class and collective discovery. In Section I(5): Subjects of Discovery, the Discovery Plan states: "[t]he parties anticipate discovery on all allegations and claims made and damages sought in the Complaint and on all defenses raised or to be raised by Defendants." Dkt. 17, § I(5), p. 3. Because there are no exceptions noted, discovery encompasses the claims made in the Complaint, including the class and collective allegations. Dkt. 1, ¶¶ 62-82. Additionally, Section I(6) states that "[t]he parties agree that discovery will not be conducted in phases or limited to certain issues." Dkt. 17, ¶ I(6), p. 3. This provision also demonstrates that the parties did not intend to and explicitly did not limit the scope of discovery to exclude any issues, including class or collective certification. There is no language in the Discovery Plan, nor in the Scheduling Order issued by this Court, that limits pre-certification class and collective discovery. As such, Defendants' argument fails.

III. Defendants' Argument Is Not Legally Supported

Defendants' reliance on an out-of-Circuit non-wage and hour decision is grossly misplaced and does not support their motion to stay. In the Ninth Circuit decision *In re Williams-Sonoma*, the only named plaintiff was unable to bring consumer class claims under Kentucky state law because state law did not permit class claims. 947 F.3d 535, 538 (9th Cir. 2020). To help cure this problem, the district court permitted the plaintiff to conduct discovery to allow the plaintiff to find another named representative to bring class claims under California state law. *Id.*

In re Williams-Sonoma merely states that "using discovery to find a client to be the named plaintiff before a class action is certified is not within the scope of Rule 26(b)(1)." 947 F.3d at 540. Here, Plaintiffs are not seeking class and collective discovery to identify a new named plaintiff – Plaintiffs have a Named Plaintiff. As such, the holding in *In re Williams-Sonoma* is not applicable to this case.

Further, in Plaintiffs' motion to compel discovery, Plaintiffs cited cases permitting the production of class and collective discovery. Dkt. 29, at PageID# 141. And additional support is provided in the next section. Defendants have not identified any such authority to the contrary. Thus, Defendants' motion should be denied.

IV. Class and Collective Discovery Is Appropriate

When a named plaintiff alleges class and collective action claims, parties routinely engage in pre-certification discovery. *See Florence v. Jose Peppers' Rests.*, 20-2339-TC-ADM, 2021 U.S. Dist. LEXIS 19352 at *11, (D. Kan. 2021) (quoting *Stebbins v. S&P Oyster Co.*, 3:16-CV-00992 (AWT), 2017 U.S. Dist. LEXIS 50633 at *3, (D. Conn. 2017)) (stating that "[p]re-certification discovery of potential class lists is favored in most cases considering the question, within the contests of Rule 23, FLSA, or both"); *Youngblood v. Family Dollar Stores, Inc.*, 2011 U.S. Dist. LEXIS 52821 at *6-14 (S.D.N.Y. 2011) (granting class/collective discovery pre-certification); *Glatt v. Fox Searchlight Pictures, Inc.*, 11-CV-6784(WHP), 2012 U.S. Dist. LEXIS 80905 at * 5-10 (S.D.N.Y. 2012) (stating that "'courts routinely allow plaintiffs to discover identifying information regarding potential class members,' and 'conditional certification is not a prerequisite to the turnover of information concerning the identity of potential class members.'" (internal citations omitted)); *Peterson v. Nelnet Diversified Sols., LLC*, 17-CV-01064-NYW, 2018 U.S. Dist. LEXIS 229773 at *13 (D. Colo. 2018) (finding pre-certification discovery of putative class and collective members appropriate as "relevant to 'defining the proposed class or

determining whether the named plaintiffs are similarly situated to members of [a] proposed class,'" and those individuals may have relevant information about claims); *Jackson v. Mississippi Behavioral Health Services, LLC*, 3:22-CV-00697-CWR-LGI, Doc. 17 (S.D. Miss. March 30, 2023) (ordering pre-certification FLSA discovery). Thus, contrary to Defendants' assertion that "unless and until certification of a class is granted, the only relevant discovery concerns factual allegations relevant to claims of the parties in this case," Dkt. 32, ¶ 8, "'provisional certification is not necessarily a prerequisite for conducting limited discovery' for defining the proposed class." *Acevedo v. Ace Coffee Bar, Inc.*, 248 F.R.D. 550, 553 (N.D. Ill. 2008) (internal citations omitted).

Courts in this District have specifically granted pre-certification class and collective discovery in FLSA cases. *See Chapman v. Saber Healthcare Grp., LLC*, 2021 U.S. Dist. LEXIS 273960 at *3 (E.D. Va. 2021) (pre-certification discovery granted regarding putative collective members and employer policies and practices); *Haley v. FRC Balance, LLC*, 1:23-CV-666, 2024 U.S. Dist. LEXIS 94607 at *3-6 (E.D. Va. 2024). In *Haley v. FRC Balance*, this District held that not only was the Plaintiff entitled to discovery pertaining to the certification of the FLSA collective, but that it was clear error for the court to have bifurcated and limited pre-certification discovery to exclude that related to the putative Rule 23 class. 2024 U.S. Dist. LEXIS 94607 at *3-6 (E.D. Va. 2024). Such discovery was necessary because of the stringent showing required by Rule 23. *Id.*

Here, Plaintiffs seek proper pre-certification discovery in order to "establish a record" such that the Court can determine if the requirements for certification have been met. *See Fangman v. Genuine Title, LLC*, No. RDB-14-0081, 2015 U.S. Dist. LEXIS 167288 at *12, (D. Md. 2015) (non-wage and hour Rule 23 case holding that "[p]laintiffs [are] entitled to pre-

certification discovery to establish the record the court needs to determine whether the requirements for a class action suit have been met"). Defendants' allegation that Plaintiffs are seeking the names and records related to putative class and collective members to "identify[] potential individuals for the purpose of turning this into a class action," Dkt. 32, ¶ 5, is unfounded and untrue. Plaintiffs seek discovery to establish a record for the Court to analyze the Rule 23 requirements.

Defendants' argument that Plaintiffs are engaged in a "fishing expedition" and that there is "no basis" that the Named Plaintiff is similarly situated to the putative class is baseless. Plaintiffs claim violations based on Defendants' policy of classifying security guards as independent contractors and not paying them an overtime premium as required by federal and state laws. Plaintiffs' counsel conducted a thorough pre-filing investigation, reviewed various DMV documents including the contract the Named Plaintiff signed, paystubs, text communications, the "Independent Contractor Handbook" that addresses pay policies, and various other documents. Further, a review of Defendants' job postings for security guards in Virginia, Washington D.C., and Maryland, are largely the same and indicate that all security guards are independent contractors. See, Ex. A. Further, Defendants' misclassification extends to managerial workers as well, including the Director of Operations. His job responsibilities include overseeing the security guard staff:

> The Director of Operations is a senior-level management role responsible for overseeing an organization's operations. This includes supervising subordinate security staff, managing security officer relations, client relations, and ensuring business continuity. The Director of Operations is responsible for various field operations, including but not limited to ensuring proper dress code and timely arrival of officers, allocating and scheduling roles and assignments to subordinate staff, and overseeing their punctuality through assigned supervisors or direct communication.

Ex. B, Independent Contractor Agreement – DOO Agreement at p. 1. Thus, Plaintiffs seek the discovery at issue to build the necessary record upon which this Court can properly analyze whether certification is appropriate. *Fangman,* 2015 U.S. Dist. LEXIS 167288 at *12.

V. Plaintiffs Will Be Prejudiced by Delay and Denial of Class and Collective Discovery

Finally, a delay or denial of discovery on the class and collective claims would be prejudicial to Plaintiffs. Only two months remain in the discovery period as ordered by this Court. Dkt. 20, ¶ 2. Defendants have not sought extension of this deadline. If discovery is stayed, this will effectively deny Plaintiffs any class or collective discovery. Without such discovery, Plaintiffs will be prevented from moving for certification with an appropriate record for this Court to analyze. *Supra*, Section IV. Further, if Plaintiffs do not seek class and collective discovery, and if the discovery period expires, then Plaintiffs risk forgoing evidence that is necessary for their forthcoming motions and trial. Ultimately, Plaintiffs need the discovery to meet the standard for class and collective certification. Plaintiffs have made every effort to comply with the discovery timeline as set forth by this Court and should not be unfairly prejudiced by Defendants' failure to do so and attempts to create further delay.

CONCLUSION

To summarize, Defendants' motion lacks good cause to modify the scheduling order because 1) it is an untimely objection to Plaintiffs' discovery requests; 2) it inaccurately characterizes the Discovery Plan; 3) it relies on a single inapplicable and non-binding case; 4) the requested discovery is relevant and proper; and 5) Plaintiffs would be prejudiced by delay or denial of discovery relating to their class and collective claims. Plaintiffs therefore respectfully request that this Court deny Defendants' motion to stay discovery.

Dated: November 5, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 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