

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Bruce C. Cohen, individually, as private
attorney general, and on behalf of similarly
situated individuals,

Plaintiff,

v.

Consilio LLC, and Consilio Services, LLC,
Defendants.

Civ. No. 20-1689-DSD-BRT

**ORDER GRANTING THE PARTIES'
STIPULATION TO STAY
LITIGATION, CONDITIONALLY
CERTIFY PROPOSED FLSA
COLLECTIVE, SEND NOTICE, AND
PURSUE SETTLEMENT
DISCUSSIONS**

This matter came before the Court on the Parties' Stipulation To Stay Litigation, Conditionally Certify Proposed FLSA Collective, Send Notice, And Pursue Settlement Discussions. (Doc. No. 109.)

IT IS HEREBY ORDERED that:

1. Defendants' Stipulation To Stay Litigation, Conditionally Certify Proposed FLSA Collective, Send Notice, And Pursue Settlement Discussions is GRANTED.

2. The Court specifically grants the Parties' stipulation to conditionally certify the following collective pursuant to Section 216(b) of the Fair Labor Standards Act ("FLSA"):

All U.S. licensed attorney document reviewers employed by Consilio Services, LLC in the United States from August 5, 2019 to present who were classified as exempt from overtime and were not paid for overtime for hours over 40 in a workweek.

3. Pursuant to the Parties' stipulation, this collective shall not include any individuals who have agreed to arbitrate claims regarding their compensation with Defendants' or individuals who were hired by Defendants' after August 1, 2022.

4. By agreeing to this stipulation and class definition, Defendants do not waive their right to assert that they are not liable for all or part of any alleged damages that Plaintiff or any putative opt-in Plaintiffs claim to have incurred or its right oppose final certification of the FLSA collective for trial.

5. The Court approves the Parties' proposed Notice and Consent Form attached as Exhibit 1 to the Parties' stipulation to be sent to the collective by way of the U.S. Postal Service and the collective members' personal email addresses, to the extent available.

6. Within twenty days (20) days of this Order, Defendants shall provide to a third-party settlement administrator the: (1) names, (2) last known home address, and (3) last known personal email addresses (to the extent available) for all collective members defined above and provide the same to Plaintiff's counsel.

7. The third-party settlement administrator, within fourteen (14) days of receiving the list from Defendants, shall send the Notice and Consent Form in the following manner, and in no other form: 1) mail, via the U.S Postal Service, first class, a copy of the agreed Notice and Consent Form to all persons contained on the list; and also an email copy of the agreed Notice and Consent Form to persons on the list for whom Defendants' records contain a last known personal email address. The Notice and Consent Form shall be sent on only one occasion to the collective members.

8. The Collective Members shall have sixty (60) days from the date of the initial mailing of the Notice and Consent Form to send to the Administrator a consent form indicating that they wish to participate in this Litigation as a unnamed or party plaintiff. To the extent the Notice and Consent Form is sent to particular Collective Members via

U.S. Postal Service and returned undeliverable, the Settlement Administrator will immediately notify Plaintiff's counsel and will make reasonable efforts to locate a current mailing address for those Collective Members. Such individuals shall have sixty (60) days from the date of the remailing to send to the Administrator a consent form indicating that they wish to participate in this Litigation as a party plaintiff. To the extent the Settlement Administrator receives a partially completed Consent Form from a Collective Member, the Settlement Administrator will immediately notify Plaintiff's counsel and will attempt to communicate with that Collective Member in order to facilitate the completion of the consent form.

9. The settlement administrator shall provide all completed consent forms returned to the administrator to Plaintiff's Counsel within five days of receipt. Plaintiff's Counsel shall file any such consent forms with the Court no later than within five days of the close of the sixty-day opt-in period, but is not prevented from earlier filings.

10. Any Collective Member who attempts to join the case after the deadline may be allowed to participate in the case by agreement of Defendants and Plaintiff or by leave of the Court if good cause is shown.

11. Following the sixty-day opt-in period, Defendants will produce the opt-in plaintiffs' timekeeping and compensation records relevant to their FLSA claims. Defendants will produce these records at least 14 days in advance of the parties' mediation.

12. If mediation is successful and the parties reach an agreement, the parties will submit the settlement terms reached with respect to the opt-in plaintiffs' FLSA claims to the Court for approval within 30 days of the mediation.

13. If mediation is unsuccessful, the Parties' will inform the Court within 14 days for the purpose of scheduling a status conference.

14. As of the entry of this Order, all discovery and other deadlines in this Litigation will be stayed unless and until the parties' attempts to resolve the opt-in plaintiffs' claims fail at the aforementioned private mediation, at which point this stay will be lifted and the Court will schedule the aforementioned status conference to set additional deadlines. During the stay the parties will not engage in any motion practice or discovery other than the activities described herein, unless otherwise agreed to by the parties and approved by the Court.

15. In view of the impending retirement of the undersigned, a status conference will be held on **October 28, 2022, at 9:00 am** via Zoom before the case is reassigned to another Magistrate Judge.

Date: August 16, 2022

s/ Becky R. Thorson

BECKY R. THORSON
U.S. Magistrate Judge