

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

**Austin Cook, Harrison Follett, Charlie Allen, Sophie Sanders,
Thomas Bartell, Justin Roberts, Carson McMaster, Alonso
Barrantes, Brady Perkins, Jeremy Thompson, Paige Ludden, Keaton
Hales, Trooper Johnson, Ryan Grimmnius, Aidan Walsh, and Ryan
Hadley v. Dava Marketing, LLC, and Does 1-10**

Cook v. Dava Marketing, LLC · No. 2:23-cv-00632-DBB · Decided December 8, 2025

SUMMARY

The United States District Court for the District of Utah grants in part the plaintiffs’ motion for conditional certification of an FLSA collective action against Dava Marketing, LLC. The court approves a collective consisting of current and former hourly employees who performed specified video, design, and social-media duties and worked more than 40 hours in a workweek during the applicable limitations period. The court also addresses notice methods, disclosure of potential collective members’ contact information, the opt-in period, reminder notices, and revisions to the consent and notice forms.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	David Barlow
JURISDICTION	United States District Court for the District of Utah
DECIDED	December 8, 2025
DOCKET	2:23-cv-00632-DBB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for conditional certification of an FLSA collective action and approval of a notice process. Defendants did not oppose conditional certification but opposed the proposed collective definition and several notice provisions.
STANDARD OF REVIEW	At the notice stage of an FLSA collective action, the court applies a lenient standard requiring substantial allegations that putative collective members were victims of a single decision, policy, or plan. After discovery, a stricter similarly-situated analysis applies.

PRECEDENTIAL VALUE	unpublished district court memorandum decision; persuasive authority
PARTIES	Austin Cook, Harrison Follett, Charlie Allen, Sophie Sanders, Thomas Bartell, Justin Roberts, Carson McMaster, Alonso Barrantes, Brady Perkins, Jeremy Thompson, Paige Ludden, Keaton Hales, Trooper Johnson, Ryan Grimmus, Aidan Walsh, Ryan Hadley v. Dava Marketing, LLC, Does 1-10

TOPICS

flsa class actions civil procedure employment law

PRACTICE AREAS

employment law labor law civil procedure remedies

QUESTIONS PRESENTED

1. Whether plaintiffs made the substantial allegations necessary for conditional certification of an FLSA collective action at the notice stage.
2. What employee group should be included in the conditionally certified FLSA collective.
3. What methods, information disclosures, opt-in period, reminder notices, and consent-form language were appropriate for notifying potential collective members.

HOLDINGS

1. Conditional certification was appropriate because plaintiffs substantially alleged that Dava employees were similarly situated victims of common overtime policies and practices.
2. The collective includes all current and former employees paid by Dava on an hourly basis to sell, design, and edit videos and manage online and social-media content in the United States during the applicable limitations period who worked more than forty hours in any workweek.
3. Mail, email, and text-message notice may be used, but any text-message content must first be submitted to and approved by the court; the request for a case-specific website was denied without prejudice.
4. Dava must provide names, last known mailing addresses, last known telephone numbers, last known personal email addresses, and employment dates and locations for potential collective members within fourteen days; birth dates and Social Security numbers need not be disclosed.
5. A ninety-day opt-in period was reasonable.
6. Plaintiffs may not send a reminder notice to potential collective members who have not opted in after forty-five days.
7. The consent form may designate the original plaintiffs as representative plaintiffs authorized to make litigation decisions for opt-in employees, but it must refer to the plural named plaintiffs. The notice must also remove language urging recipients to return forms promptly and language directing potential retaliation claimants to plaintiffs' counsel.

KEY QUOTATIONS

“At this stage in this case, the court must only make an initial determination, so even a finding that Plaintiffs substantially allege “that the putative class members were together the victims of a single decision, policy, or plan” is sufficient to warrant conditional certification and notice.” (Discussion I)

“Not every hourly Dava employee can qualify as a collective member with a potential claim for overtime violations, only those employees that worked more than forty hours in one week and were not paid according to FLSA requirements.” (Discussion II)

FACTUAL BACKGROUND

Plaintiffs were former Dava Marketing employees who performed video editing, design, content creation, and online and social-media work. They alleged that Dava's tight project deadlines routinely caused employees to work more than forty hours per week, while Dava failed to pay time-and-a-half overtime compensation, altered time records, banked overtime, or paid straight time. Plaintiffs also alleged that Dava improperly classified some workers as independent contractors to avoid FLSA obligations.

PROCEDURAL HISTORY

Plaintiffs filed an FLSA overtime action alleging that Dava required employees to work more than forty hours per week without lawful overtime compensation, altered time records, banked overtime, paid straight time for overtime, and misclassified workers as independent contractors. After filing an amended complaint, plaintiffs moved for conditional certification. The district court granted the motion in part, approved conditional certification with a modified collective definition, and imposed revisions and limitations on the notice process.

DISPOSITION

other

CASES CITED

- Pichler v. Cotiviti, Inc., No. 2:23-CV-0884-AMA, 2024 WL 3089897, at *3 (D. Utah 2024)
- Thiessen v. Gen. Elec. Cap. Corp., 267 F.3d 1095, 1102-03, 1105 (10th Cir. 2001)
- Vaszlavik v. Storage Tech. Corp., 175 F.R.D. 672, 678 (D. Colo. 1997)
- Madsen v. Sidwell Air Freight, No. 1:23-CV-0008-JNP, 2024 WL 1160204, at *2 (D. Utah 2024)
- Pack v. Investools, Inc., No. 2:09-cv-1042, 2011 WL 3651135, at *2 (D. Utah 2011)
- Hoffmann-La Roche Inc. v. Sperling, 493 U.S. 165, 170 (1989)
- Felps v. Mewbourne Oil Co., Inc., 460 F. Supp. 3d 1232, 1241 (D.N.M. 2020)
- Morris v. MPC Holdings, Inc., No. 20-CV-02840-CMA-NYW, 2021 WL 4124506, at *3 (D. Colo. Sept. 9, 2021)
- Stenulson v. ROI Sols., LLC, No. 220CV00614DBBJCB, 2022 WL 294867, at *4-*5 (D. Utah Feb. 1, 2022)
- Turner v. ACD Direct, Inc., No. 1:12-CV-00208-DB, 2013 WL 12110065, at *2 (D. Utah May 16, 2013)
- Koehler v. Freightquote.com, Inc., 93 F. Supp. 3d 1257, 1265-66 (D. Kan. 2015)

- Mott v. TSD Telecom Serv. LLC, No. 24-CV-00185-RMR-SBP, 2025 WL 692564, at *5 (D. Colo. Mar. 4, 2025)
- Maxfield v. Utah Dep't of Alcoholic Beverage Control, No. 4:21-CV-00099-DN-PK, 2025 WL 1348488, at *5 (D. Utah May 8, 2025)
- Pogue v. Chisholm Energy Operating, LLC, No. 2:20-CV-00580-KWR-KK, 2021 WL 5861184, at *10 (D.N.M. Dec. 10, 2021)
- West v. Bam! Pizza Mgmt., Inc., No. 1:22-CV-00209-DHU-JHR, 2023 WL 346309, at *4 (D.N.M. Jan. 20, 2023)
- Heitzman v. Calvert's Express Auto Serv. & Tire, LLC, No. 22-CV-2001-JAR-ADM, 2022 WL 5241927, at *7-*8 (D. Kan. Oct. 6, 2022)
- Bowling v. DaVita, Inc., No. 21-CV-03033-NYW-KLM, 2023 WL 4364140, at *9-*10 (D. Colo. July 6, 2023)
- Landry v. Swire Oilfield Servs., L.L.C., 252 F. Supp. 3d 1079, 1130 (D.N.M. 2017)
- Chhab v. Darden Restaurants, Inc., No. 11 CIV. 8345 NRB, 2013 WL 5308004, at *13 (S.D.N.Y. Sept. 20, 2013)
- Hose v. Henry Indus., Inc., No. 13-2490-JTM-GEB, 2016 WL 2755809, at *5 (D. Kan. May 12, 2016)
- Cruz v. Connexion Point, LLC, No. 2:24-CV-00966-TC-DBP, 2025 WL 3063380, at *4 (D. Utah Nov. 3, 2025)