IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Shameen Brown, on behalf of herself and all others similarly situated,

Plaintiff,

Case No. 1:25-cv-1832-MLB

v.

Equity Prime Mortgage, LLC,

Defendant.

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ORDER

Plaintiff Shameen Brown sues Defendant Equity Prime Mortgage, LLC for failing to pay underwriters overtime wages in violation of the Fair Labor Standards Act. (Dkt. 1.) Plaintiff moves for conditional certification. (Dkt. 27.)[1] Defendant opposes. (Dkt. 33.) The Court grants the motion in part.

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[1] In her reply brief, Plaintiff includes most of her arguments in footnotes. (Dkt. 36.) The Court does not consider them. *Pinson v. JPMorgan Chase Bank, Nat'l Ass'n*, 942 F.3d 1200, 1209 n.5 (11th Cir. 2019) ("We do not ordinarily consider arguments raised in passing in one footnote rather than the body of the brief").

I. Background

Defendant is a national mortgage lender. (Dkt. 1 ¶ 3.) Plaintiff worked for Defendant as an underwriter between March 2023 and May 2024. (*Id.* ¶ 14.) Plaintiff typically worked 60 or more hours per week but received no overtime compensation because Defendant incorrectly classified her as exempt. (*Id.* ¶¶ 5, 15, 17.) Plaintiff sued Defendant under the FLSA. (Dkt. 1.) Seven additional underwriters have "opted in" and consented to joining the suit. (Dkts. 24 (Lynette McKinn-Solomon), 26 (Jamille "Rashell" Travis, Kathy Doran, and Chris Anders), 34 (Angelica Feliz), 35 (Svetlana Donalson), 37 (Kimberly Smith).)

Plaintiff now seeks certification of her FLSA claim as a collective action under 29 U.S.C. § 216(b), proposing the following class:

> All current and former employees of Defendant working as Underwriters throughout the United States during the time period from three years prior to the filing of this Complaint through until resolution of this action.

(Dkt. 27 at 1.)[2] Plaintiff submits a proposed notice (Dkt. 27-9) and requests she be allowed to send it to potential collective members via mail, e-mail, and text message (Dkt. 27 at 10). She also requests access

[2] The Court cites the ECF-stamped page numbers.

to the last four digits of potential class members' social security numbers and permission to send a reminder notice halfway through the notice period. (*Id.*) Defendant opposes. (Dkt. 33.)

II. Legal Standard

An employee may bring an action under the FLSA for unpaid overtime compensation "for and on behalf of [herself] . . . and other employees similarly situated." 29 U.S.C. § 216(b). To participate, each employee in a "§ 216(b) collective action must affirmatively opt into the suit" and consent in writing. *Morgan v. Fam. Dollar Stores, Inc.*, 551 F.3d 1233, 1258–59 (11th Cir. 2008). Because of this opt-in mechanism, "[t]he benefits of a collective action 'depend on employees receiving accurate and timely notice . . . so that they can make informed decisions about whether to participate.'" *Id.* at 1259 (quoting *Hoffmann–La Roche, Inc. v. Sperling*, 493 U.S. 165, 170 (1989)).

The Eleventh Circuit has "sanctioned a two-stage procedure for district courts to effectively manage FLSA collective actions in the pretrial phase." *Id.* at 1260. In the first stage—also called the "notice stage"—the district court determines whether a collective action should be conditionally certified, meaning "whether other similarly situated employees should be notified" of their ability to join the case. *Id.* Conditional certification is appropriate if a plaintiff demonstrates a reasonable basis to believe (1) there are other employees of the defendant who desire to opt-in and (2) these other employees are "similarly situated with respect to their job requirements and with regard to their pay provisions."' *Barker v. WBY, Inc.*, 2020 WL 10486627, at *1 (N.D. Ga. Feb. 18, 2020). "To be similarly situated, a plaintiff's position need only be similar, not identical, to the position of potential class members." *Id.* The standard at the notice stage is "not particularly stringent" and "fairly lenient" but must be based on "more than only counsel's unsupported assertions that FLSA violations are widespread and that additional plaintiffs would come[.]" *Morgan*, 551 F.3d at 1260–61 (punctuation omitted); *see also Grayson v. K Mart Corp.*, 79 F.3d 1086, 1097 (11th Cir. 1996) (noting plaintiff's burden is "not heavy" and may be met with "detailed allegations supported by affidavits which successfully engage defendants' affidavits to the contrary") (internal citation and quotation omitted).

In the second stage, the court determines whether the collective action should continue. An employer triggers this stage (typically after the close of discovery) by moving for decertification. *Morgan*, 551 F.3d at 1261.

III. Discussion

This case is at the first stage, and the Court considers whether Plaintiff has adequately shown similarly situated employees want to opt in. *Barker*, 2020 WL 10486627, at *1.

A. Similarly Situated Employees

Plaintiff contends Defendant's other underwriters are similarly situated because (1) they have the same job duties, (2) Defendant pays them in the same manner, (3) Defendant incorrectly classifies them as exempt from overtime, (4) Defendant fails to pay them any overtime, (5) they all use the same software as part of their job, and (6) they all comply with the same internal standards and guidelines. (Dkt. 27 at 17.)[3] In support of these allegations, Plaintiff provides affidavits from former underwriters detailing their duties. (Dkts. 27-1–27-5.) The employees—like Plaintiff—used Encompass (loan origination software) to streamline the underwriting process. (*See, e.g.*, Dkt. 27-1 ¶ 12.) They manually

[3] The Court recognizes the class includes former employees but uses the present tense for readability.

reviewed documents in loan files so information provided by applicants would be pulled accurately into Defendant's documents. (*Id.* ¶ 14.) Each underwriter was "required to strictly adhere to the applicable, predetermined underwriting guidelines" without "any authority to deviate from or make exceptions to the predetermined underwriting guidelines and policies." (*Id.* ¶ 16.) These allegations support a finding that Defendant's current and former underwriters are similarly situated. *See Henry v. Clayton Cnty. Sch. Dist.*, 757 F. Supp. 3d 1336, 1341 (N.D. Ga. 2024) (finding plaintiff demonstrated proposed opt-in plaintiffs similarly situated because subject to same policies and similar job duties). Plaintiff also argues Defendant uses a single, uniform job posting to hire underwriters. (Dkts. 27 at 23; 27-8.) That also provides evidence Defendant's underwriters are similarly situated. *See Devries v. Morgan Stanley & Co. LLC*, 2014 WL 505157, at *5 (S.D. Fla. Feb. 7, 2014) ("Uniformity of [a] job posting supports a similarly situated analysis.").

Defendant insists its underwriters are not similarly situated because underwriters work on different loans: some on retail loans, some on wholesale loans, and some reviewing files for quality control. (Dkt.

33 at 4.) It thus insists "the wide variety of loans offered by [Defendant] and the varying types of underwriter roles, differentiate [Defendant's] underwriters." (*Id.*) As an example, Defendant explains an underwriter working on "Non-QM loans would be dealing with a far wider variety of borrower profiles, and likely exercising more judgment than an underwriter working primarily on loans to individuals with steady W-2 income and low debt." (*Id.*) This allegation—"likely exercising more judgment"—does not contradict the simplicity of Plaintiff's evidence that all underwriters "strictly adhere[d] to the applicable, predetermined underwriting guidelines" and "did not have any authority to deviate from or make exceptions to the predetermined underwriting guidelines and policies." (Dkt. 27-1 ¶ 16.) That underwriters must "strictly adhere" to different "predetermined guidelines" when reviewing different loans does not make them differently situated—they still apply guidelines without discretion.

Defendant also asserts "there are different underwriter job descriptions." (Dkt. 33 at 9.) But nothing suggests those jobs differ in a meaningful way. Aside from minute differences, the positions involve similar duties. The "QC Underwriter" job posting proffered by

Defendant, for example, contains key similarities to the "Underwriter" job posting provided by Plaintiff. (*Compare* Dkt. 27-8 at 1 (key responsibilities of underwriter include "determin[ing] accuracy of all documentation" and "ensur[ing] . . . information . . . meets compliance standards") *with* 33-2 at 2 (key responsibilities of QC underwriter include "verify[ing] the accuracy and completeness of loan documentation" and "ensuring compliance with policies").)[4]

Defendant also contends the different job descriptions the opt-in plaintiffs used on their LinkedIn postings show they are not similarly situated. (*Id.* at 5.) The Court is not persuaded. Defendant cites no cases finding an employee's description of a job on a resume—which might include puffery—relevant in comparing across employees. Two people marketing themselves might include different descriptions of the same job. One man's Trash Collector is another man's Sanitation Expert.

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[4] The Court notes Defendant's provided exhibit does not contain the full job description of Non-QM Underwriter. (*See* Dkt. 33-2 at 8.) If Defendant intended to rely on that job description, the Court's inability to consider it is Defendant's own doing.

Under the "fairly lenient" standard applicable at this stage of the litigation, the Court determines Plaintiff has shown a reasonable basis to believe Defendant's other underwriters are similarly situated.

B. Other Employees Desire to Opt-In

Plaintiff has also shown a reasonable basis to believe other underwriters want to opt in. Seven have done so. *Stevenson v. Great Am. Dream, Inc.*, 2013 WL 4217128, at *2 (N.D. Ga. Aug. 14, 2013) (finding plaintiffs have shown reasonable basis to conclude other employees wished to opt-in based on the filing of one consent). Plaintiff's affidavit identifies several others who "would likely come forward with claims for overtime compensation due." (Dkts. 27-1 ¶ 23; 27-2 ¶ 23; 27-3 ¶ 23; 27-4 ¶ 23; 27-5 ¶ 23.)

C. Class and Form of Notice

Defendant says—if the Court grant's conditional certification—the Court should not define the class as Plaintiff requests and, instead, should order discovery to identify the appropriate class. (Dkt. 33 at 10.) But it does not say why. Without any supporting argument, the Court declines Defendant's request to order discovery for the purpose of narrowing the proposed class. *See Whitten v. SSA, Comm'r*, 778 F. App'x

791, 793 (11th Cir. 2019) ("For an issue to be adequately raised in [a] brief, it must be . . . supported by arguments and citations to the record and to relevant authority.").

Defendant also asks the Court to order the parties to meet, confer, and "jointly prepare an accurate and balanced notice." (Dkt. 33 at 11.) It requests certain changes to the notice (like exclusion of the case caption and inclusion of their contact information) but cites no authority for those requests. (*Id.*) Plaintiff, on the other hand, cites cases supporting its version. (Dkt. 36 at 19-20.) So the Court sides with Plaintiff.

Defendant also opposes notice via text message and e-mail. But courts in this district regularly permits those methods. *See, e.g.*, *Kirk v. Equity Prime Mortg. LLC*, 2018 WL 1145272, at *3 (N.D. Ga. Nov. 19, 2018); *Campo v. Granite Servs. Int'l*, 584 F. Supp. 3d 1337, 1350 (N.D. Ga. 2022). So the Court refuses that modification. On the other hand, the Court concludes reminder notices would be redundant and "could be interpreted as encouragement by the Court to join the lawsuit." *Rojas v. Garda CL SE, Inc.*, 297 F.R.D. 669, 682 (S.D. Fla. 2013). So the Court denies Plaintiff's motion in this regard.

Lastly, Defendant opposes providing Plaintiff with the last four digits of putative class members' social security numbers "as an unwarranted and unnecessary invasion of privacy." (Dkt. 33 at 11.) The Court has similar privacy and security concerns. *See Stitt v. Am. Disposal Servs. of Ga., Inc.*, 2018 WL 6716046, at *4 (N.D. Ga. Dec. 20, 2018) (rejecting plaintiffs' request that defendant provide them with last four digits of social security numbers given employees' privacy interests).[5] The Court thus denies this portion of Plaintiff's motion.

IV. Conclusion

The Court **GRANTS IN PART** and **DENIES IN PART** Plaintiff's Motion for Conditional Certification of FLSA Collective Action (Dkt. 27). The following class is conditionally certified:

> All current and former employees of Defendant working as Underwriters throughout the United States during the time

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[5] Plaintiff also does not provide a proposed protective order or otherwise suggest how she will keep secure such information. The Court is not suggesting Plaintiff move for such a protective order, as it has already made its final determination on this issue.

period from three years prior to the filing of this Complaint through until resolution of this action.

The Court **APPROVES** the proposed notice and Shavitz Law Group, P.A., as counsel for the FLSA collective. The Court **DENIES** the motion as to Plaintiff's request to send out a reminder notice halfway through the notice period and its request that Defendant provide putative class members' last four social security numbers. The Court **DIRECTS** Defendant to provide Plaintiff the names, contact information, dates of employment, and last known home address of potential collective members within forty-five (45) days from the date of entry of this order. Once Defendant provides that information, Plaintiff's counsel will be allowed ninety (90) days to collect consents from opt-in plaintiffs.

SO ORDERED this 27th day of August, 2026.

MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE