



## Silva v. Agave Transportation Services, Inc

2023 | Cited 0 times | D. New Mexico | May 19, 2023

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO JAVIER SILVA, on behalf of himself and all others similarly situated,  
Plaintiff, v. Civ. No. 21 1117 GJF/JHR AGAVE TRANSPORTATION SERVICES, INC.,  
Defendant.

ORDER GRANTING MOTION FOR CONDITIONAL CERTIFICATION THIS MATTER is before the Court upon notice stipulating to conditional certification [ECF 40]. Consequently, the Court hereby approves the following Notice Letter, Consent Form, and Reminder Notice as set forth below. IT IS ORDERED that notice shall be issued to:

All current and former New Mexico hourly paid truck driver employees who worked for Defendant, and who, like Plaintiff, allege they were not paid time and one-half their respective rates of pay for all hours worked over forty in each seven- day workweek for the time period of three years preceding the date of this lawsuit was filed and forward. The Court approves the following timeline for issuing notice:

DEADLINE DESCRIPTION OF DEADLINE 20 Days from Order Approving Defendant shall disclose the names, all Notice to Potential Class Members known addresses, all phone numbers

(home, mobile, etc.), all known email addresses (work and personal), social security numbers, dates of employment, and locations employed of those described in above-referenced group of Putative Class Members to be notified in a

usable electronic format. 30 Days from Order Approving Notice to Potential Class Members

Plaintiff's Counsel shall send by mail, e- mail, and text message a copy of the Court approved Notice and Consent Form to the Putative Class Members. Defendant is required to post the Notice and Consent forms in an open and obvious location, such as an employee breakroom.

30 Days from the Date that Notice is Sent to Potential Class Members

is authorized to send by mail, e-mail, and text message the Reminder Notice to the Putative Class



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Members reminding them of the deadline for the submission of the Consent forms.

60 Days from the Date that Notice is Mailed to Potential Class Members

The Putative Class Members shall have 60 days to return their signed Consent forms for filing with the Court. Defendant may take down the posted Notice and Consent forms.

IT IS FURTHER ORDERED that class members are allowed to execute their consent form electronically via DocuSign. Telephone contact with Putative Class Members is limited to verifying that Putative Class Members have received the Notice and Consent Forms. counsel may hire, if necessary, a third-party class action administration company to conduct the actual mailing, emailing and text messaging of the notice and forms. Defendant is prohibited during the opt-in period from communicating, directly or indirectly, with any current or former truck driver employees about any matters which touch or concern the settlement of any outstanding wage claims or regarding other matters related to this suit. Defendant shall so instruct all its managers. This order does not restrict Defendant from discussing with any current employee matters that arise in the normal course of business.

SO ORDERED.

THE HONORABLE GREGORY J. FOURATT UNITED STATES MAGISTRATE JUDGE Presiding  
by Consent

