

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

ETHAN A. HOLMES, for himself and on  
behalf of those similarly situated

Plaintiff,

v.

Case No: 2:16-cv-669-FtM-38MRM

SWISSPORT FUELING, INC. and  
SWISSPORT SA FUEL SERVICES, LLC,

Defendants.

\_\_\_\_\_ /

**ORDER**<sup>1</sup>

This matter comes before the Court on United States Magistrate Judge Mac R. McCoy's Report and Recommendation ([Doc. 79](#)). Judge McCoy recommends granting in part the Notice of Filing Revised Proposed Notice ([Doc. 74](#)) and granting in part the Motion Relating to the Distribution of the Court-Approved Notice of Collective Action ([Doc. 75](#)). No party objects to the Report and Recommendation, and the time to do so has expired. The Report and Recommendation is now ripe for review.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* And "[t]he judge

---

<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file carefully and independently, and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation ([Doc. 79](#)).

Accordingly, it is now

**ORDERED:**

(1) The Report and Recommendation ([Doc. 79](#)) is **ACCEPTED and ADOPTED** and the findings incorporated herein.

(2) Plaintiff Ethan Holmes’ Notice of Filing Revised Proposed Notice ([Doc. 74](#)) is **GRANTED in part.**

- a. Plaintiff must prepare a revised Notice of Lawsuit and Consent to Become Opt-In Plaintiff Pursuant to 29 U.S.C. § 216(b), which is consistent with this Order and the Report and Recommendation ([Doc. 79](#)), confer with Defendants, and file the proposed Notice and proposed Consent on or before **January 10, 2018**, for the Court’s final approval;
- b. Plaintiff must prepare a reminder notice, provide a copy of it to Defendants, confer with Defendants, and file the proposed reminder for the Court’s approval on or before **January 10, 2018**; and
- c. Plaintiff must forward a copy of the envelopes that he will use to send the Notice to Defendants on or before **January 10, 2018**.

- (3) Plaintiff's Motion Relating to the Distribution of the Court-Approved Notice of Collective Action ([Doc. 75](#)) is **GRANTED in part**. Plaintiff must send any Court-approved Notice, Consent, and reminder via First Class Mail.
- (4) Defendants must produce to Plaintiff the names and last known addresses of all aircraft fuelers employed by Defendants at Southwest Florida International Airport within the past three (3) years from the date the Notice is mailed **on or before January 10, 2018**.
- (5) When the Court approves the Notice and Consent, Plaintiff must mail the Notice and Consent.
- (6) Plaintiff must file all Consents to Join with the Court promptly upon receipt; and
- (7) The parties must file an Amended Case Management Report addressing the remaining case management deadlines in the case on or before **January 3, 2018**.

**DONE** and **ORDERED** in Fort Myers, Florida this 20th day of December 2017.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record