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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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6 PAUL VELIZ, *et al.*,) CASE NO. C 03-01180 SBA
7)
8 Plaintiffs,)
9 v.) ORDER RE FACILITATED
10) FLSA NOTICE PURSUANT TO 29 U.S.C.
11) §216(b)
12)
13 CINTAS CORPORATION, *et al.*)
14)
15 Defendants.)
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13 WHEREAS, plaintiffs Paul Veliz, *et al.*, filed a motion to facilitate notice under Section
14 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §216(b), and defendant Cintas
15 Corporation opposed plaintiffs’ motion;

16 IT IS HEREBY ORDERED as follows:

17 1. For good cause shown, the Court hereby ORDERS that plaintiffs’ FLSA claims in this
18 case shall proceed as a conditional collective action, under 29 U.S.C. § 216(b), on behalf of all
19 persons who work or have worked for Cintas as:

20 (A) Service Sales Representatives, Commission Route Salespersons, Commission
21 Route Sales Representatives, Route Drivers or other persons performing a service and/or delivery
22 function on a non-hourly basis anywhere in the United States at any time from March 2000 to the
23 present;

24 (B) Such persons shall not include: (1) persons who, as part of their duties, cross
25 state lines to make deliveries; or (2) persons who as part of their duties operate a vehicle with an
26 average gross weight in excess of 10,000 pounds in interstate commerce;

27 (C) Nor shall such persons include persons who work or have worked for Cintas
28 as Service Training Coordinators unless before such person worked for Cintas as a Service

1 Training Coordinator, such person otherwise qualified as a collective action member under (A)
2 and (B) above.

3 2. The language of the proposed FLSA notice and Consent to Sue form (attached hereto)
4 is approved as fair and accurate.

5 3. Within 30 days of the date of this ORDER, Cintas shall produce to plaintiffs' counsel
6 a machine-readable mailing list containing the names and addresses of all persons described in
7 paragraph 1 of this ORDER, so that notice may be timely accomplished. Cintas shall further
8 produce to plaintiffs' counsel within 14 days of any request by plaintiffs' counsel all telephone
9 numbers Cintas might have (if any) for any person described in paragraph 1 of this ORDER
10 whose FLSA Notice is returned by the Post Office as undeliverable. Use and possession of the
11 information provided by Cintas pursuant to this paragraph shall be limited to plaintiffs' counsel
12 of record in this action, who may use the information solely for the purpose of providing notice
13 of this action to persons entitled to file Consent to Sue forms pursuant to paragraph 1 of this
14 ORDER.

15 4. Plaintiffs' counsel shall mail the proposed FLSA Notice to all persons described in
16 paragraph 1 of this ORDER as soon as practicable and in no event later than 30 days after
17 receiving the mailing list described in paragraph 3 of this ORDER.

18 5. Within 14 days of the date of this ORDER, Cintas shall post the proposed FLSA
19 Notice in all Cintas workplaces where persons described in paragraph 1 of this ORDER are or
20 have been employed since March 19, 2000, by displaying it, along with multiple copies of the
21 Consent to Sue form, in a place visible and accessible to all Route Drivers. Cintas shall ensure
22 that copies of the Consent to Sue form are available and accessible to all Route Drivers
23 throughout the filing period without requiring such Route Drivers individually to request such
24 forms.

25 6. To be timely filed, Consent to Sue forms must be received and filed/date stamped by
26 the Court no later than 90 days after the date on which the FLSA Notice package is mailed by
27 plaintiffs' counsel.
28

1 7. After Cintas has produced to plaintiffs the machine-readable mailing list referred to in
2 paragraph 3 of this ORDER, the parties shall meet and confer to discuss how Cintas chose which
3 persons were to be included and any objections plaintiffs have to Cintas' process. If the parties
4 are unable to resolve any issues, plaintiffs may file a motion with the Court.
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6 IT IS SO ORDERED.
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8 Dated: 5/25/04
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/s/ Sandra Brown Armstrong
HON. SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE
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3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA

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6 PAUL VELIZ, et al, On behalf of
7 Themselves and All Others Similarly
8 Situated.

9 Plaintiffs,

10 vs.

11 CINTAS CORPORATION, an Ohio
12 corporation; PLAN ADMINISTRATOR for
13 the Cintas Partners' Plan; and DOES 1-25,
14 inclusive,

15 Defendants.

No. C 03-1180 SBA

NOTICE OF COLLECTIVE ACTION

16 To: All persons who have worked for Cintas Corporation as Service Sales Representatives,
17 Commission Route Salespersons, Commission Route Sales Representatives, Route
18 Drivers and Other Persons Performing a Service and/or Delivery Function on a
19 Non-Hourly Basis ("Route Drivers")

20 Re: Fair Labor Standards Act Lawsuit Filed Against Cintas Corporation

21 1. INTRODUCTION

22 This Notice is to inform you about a lawsuit in which the plaintiffs allege that you are
23 "similarly situated" to the named plaintiffs, to advise you of how your rights may be
24 affected by this lawsuit, and to instruct you on the procedure for participating in this
25 lawsuit, if you decide that it is appropriate and if you choose to do so.

26 2. DESCRIPTION OF THE LAWSUIT

27 On March 19, 2003, fifteen (15) individual plaintiffs filed a complaint in the U.S. District
28 Court for the Northern District of California against Cintas Corporation ("Cintas"). On
29 May 19, 2003, those and other individuals filed an amended complaint on behalf of
30 themselves and all other past and present employees of Cintas who have worked as Route
31 Drivers. The amended complaint alleges that past and present Cintas Route Drivers are
32 entitled to overtime pay under the federal Fair Labor Standards Act ("FLSA").

33 The lawsuit alleges that Cintas violated the FLSA by failing to pay Route Drivers
34 overtime for work performed in excess of forty (40) hours per week. Plaintiffs allege that
35 they are entitled to recover unpaid overtime for such work performed after March 19,
36 2000. Plaintiffs also seek an additional equal amount as liquidated damages, as well as
37 attorneys' fees and costs. This litigation is currently in the early pretrial stage.

38 Cintas denies plaintiffs' allegations and maintains that plaintiffs are exempt from the
overtime provisions of the FLSA.

1 3. PERSONS ELIGIBLE TO RECEIVE THIS NOTICE

2 The U.S. District Court has ordered this FLSA Notice to be distributed to:

3 All persons who work or have worked for Cintas as

4 (A) Service Sales Representatives, Commission Route Salespersons, Commission Route
5 Sales Representatives, Route Drivers or other persons performing a service and/or
6 delivery function on a non-hourly basis anywhere in the United States at any time from
7 March 2000 to the present;

8 (B) Such persons shall not include: (1) persons who, as part of their duties, cross state
9 lines to make deliveries; or (2) persons who as part of their duties operate a vehicle with
10 an average gross weight in excess of 10,000 pounds in interstate commerce;

11 (C) Nor shall such persons include persons who work or have worked for Cintas as
12 Service Training Coordinators unless before such person worked for Cintas as a Service
13 Training Coordinator, such person otherwise qualified as a collective action member
14 under (A) and (B) above.

15 4. CINTAS ROUTE DRIVERS IN CALIFORNIA

16 If you worked for Cintas in California between May 14, 1997 and June 1, 2002, your
17 ability to pursue an FLSA overtime claim in this lawsuit depends on whether you opted
18 out of a class-wide settlement agreement between Cintas and Route Drivers regarding
19 overtime payments. That settlement was approved by the Los Angeles Superior Court on
20 February 5, 2003. If you did not opt out of that settlement, you do not have a claim for
21 FLSA overtime payments for the time period covered by it. That settlement does *not*
22 affect any California Route Driver's rights to challenge Cintas' overtime practices after
23 June 1, 2002.

24 5. YOUR RIGHT TO PARTICIPATE IN THIS SUIT

25 If you worked as a Cintas Route Driver during the relevant time period discussed above
26 and believe that Cintas has failed to pay you all overtime compensation to which you are
27 entitled, you have the right to make an FLSA claim against Cintas in this lawsuit. To do
28 so, you must complete, sign and mail the enclosed Consent to Sue form to plaintiffs'
counsel so that it is received on or before _____ [90 days after mailing], 2004. It is
entirely your own decision whether to join this lawsuit. You are not required to take any
action unless you so desire.

6. ARBITRATION OR COURT

On April 5, 2004, the U.S. District Court ruled that the majority of Cintas Route Drivers
who join this lawsuit must arbitrate their overtime claims before the American
Arbitration Association ("AAA") while others may continue to litigate their overtime
claims in court. If you join this lawsuit by filing a timely Consent to Sue as described
above, the Court will decide whether your claims will proceed in arbitration or before the
court. Your rights under the FLSA will be the same whether you arbitrate before the
AAA or litigate before the federal court.

You will be required to arbitrate your overtime claim against Cintas before one or more
AAA arbitrators *unless*: (1) you did not sign an arbitration agreement with Cintas; (2)

1 your employment is governed by a collective bargaining agreement and not an individual
2 employment agreement; (3) you worked for Cintas in Arkansas or any other state where
3 the Court later finds Cintas' arbitration agreements to be legally unenforceable; or (4) you
later demonstrate to the Court that the circumstances of your signing the arbitration
agreement were unconscionable.

4 The U.S. District Court also made several rulings regarding the enforceability of certain
5 terms in some of Cintas' employment arbitration clauses. The "loser-pays" provision in
6 the 1996 version was found unconscionable and unenforceable. Provisions in the 1996,
7 1999, 2001, and 2002 arbitration clauses that (1) limit claims and recovery to one year, or
8 (2) fail to guarantee prevailing claimants' statutory right to recover attorneys' fees and
9 costs, were found unconscionable and unenforceable under the laws of California,
Colorado, Connecticut, Maryland, Michigan, New Jersey, New York and North Carolina
and under the laws of the Second, Fourth, Fifth, Sixth, Ninth, Tenth and Eleventh Circuit
Courts of Appeal. The enforceability of these same clauses with respect to claimants who
worked for Cintas in Illinois, Indiana, and Missouri will be decided by the arbitrator[s].
The Court has not yet considered this issue for other states.

10 Whether plaintiffs' overtime claims proceed on a class-action and/or collective basis
11 rather than an individual basis will be decided: (1) by the U.S. District Court for those
12 Route Drivers who are permitted to litigate their overtime claims in court; and (2) by the
13 arbitrator[s], with a right of review to the U.S. District Court, for those Route Drivers
14 who arbitrate their overtime claims before the AAA.

15 7. EFFECT OF JOINING THIS SUIT

16 If you choose to join this lawsuit, you will be bound by the judgment on any claim you
17 may have under the FLSA, whether favorable or unfavorable. While this lawsuit is
18 proceeding, you may be required to respond under oath to written questions and/or to
19 testify.

20 8. NO LEGAL EFFECT IN NOT JOINING THIS SUIT

21 If you choose *not* to join this lawsuit, you will not be affected by the judgment, favorable
22 or unfavorable, on any of the claims brought under the FLSA that are alleged in this
23 action. If you do not file a Consent to Sue form, you will not receive any back overtime
24 wages or other relief from the case if the plaintiffs prevail on their FLSA claims.
25 Recovery under the FLSA would be obtainable by you *only* if you file your own lawsuit
26 within the time provided by law and you prevail on your claims. Claims for overtime
27 under the FLSA must be filed, if at all, within two years after a wage violation (or within
28 three years if the violation was willful as defined by law). Any claims for overtime pay
under federal law not filed within these time limits are likely to be denied as untimely.

Choosing *not* to sign and submit a Consent to Sue form will not affect your eligibility, if
any, to recover overtime compensation under state law.

9. NO RETALIATION PERMITTED

Federal law prohibits Cintas from taking adverse action against persons who have
exercised their rights under the FLSA to participate in this lawsuit.

10. YOUR LEGAL REPRESENTATION IF YOU JOIN

1 If you choose to join this suit, your interests will be represented by the named plaintiffs
2 through their attorneys, as counsel for the proposed class. Counsel for the proposed class
are:

3 Theodore J. Pintar
4 Steven W. Pepich
LERACH, COUGHLIN, STOIA & ROBBINS, LLP
5 401 B Street, Suite 1700
San Diego, CA 92101
6 Telephone: 619-231-1058
Fax 619-231-7423

7 Michael Rubin
8 Scott A. Kronland
Eileen B. Goldsmith
9 ALTSHULER, BERZON, NUSSBAUM,
RUBIN & DEMAIN
10 177 Post Street, Suite 300
San Francisco, CA 94108
11 Telephone: 415-421-7151
Fax 415-362-8064

12 Theresa M. Traber
13 Vanessa Eisemann
TRABER & VOORHEES
14 128 No. Fair Oaks Avenue, Suite 204
Pasadena, CA 91103
15 Telephone: 626-585-9611
Fax 626-577-7079

16 11. FURTHER INFORMATION

17 For further information about this suit, you may contact a representative of plaintiffs'
18 counsel at the following toll-free number – **[to be filled in later]**.

19 12. CONCLUSION

20 **THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE**
21 **UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF**
22 **CALIFORNIA, THE HONORABLE SAUNDRA BROWN ARMSTRONG,**
UNITED STATES DISTRICT JUDGE.

23 **THE COURT HAS MADE NO DECISION IN THIS CASE ABOUT THE MERITS**
24 **OF PLAINTIFFS' CLAIMS OR OF DEFENDANTS' DEFENSES.**

25 _____
United States District Judge

1
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 PAUL VELIZ, et al, On behalf of
6 Themselves and All Others Similarly
7 Situated.

No. C 03-1180 SBA
CONSENT TO SUE

8 Plaintiffs,

9 vs.

10 CINTAS CORPORATION, et al.

11 Defendants.
_____ /

12 I am a current or former employee of Cintas Corporation, and I hereby consent to sue
13 Cintas Corporation for unpaid overtime premiums under the federal Fair Labor Standards Act
("FLSA"), 29 U.S.C. §216(b).

14 I worked in the position of _____ for Cintas Corporation in
15 _____, _____ from on or about _____, _____, to on or
16 (City) (State) (Month) (Year)
17 about _____, _____.
(Month) (Year)

18 I hereby designate Altshuler, Berzon, Nussbaum, Rubin & Demain, Traber & Voorhees,
19 and Lerach, Coughlin, Stoia & Robbins, LLP, to represent me in this action.

20 Dated: _____, 2004

21 Signed: _____
(Signature)

22 Name (Print Legibly) _____
23 Address _____
24 _____
(City) (State) (Zip Code)

25 Telephone: _____

26 Email Address: _____

27 Return to: Veliz - Overtime Lawsuit, Lerach, Coughlin, Stoia & Robbins, LLP, 401 B Street,
28 Suite 1700, San Diego, CA 92101-4297, to be received by _____ [date to be filed in
later].