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11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
EASTERN DIVISION

14 **RAUL NOVOA, JAIME CAMPOS**
15 **FUENTES, ABDIAZIZ KARIM, and**
16 **RAMON MANCIA** individually and on
behalf of all others similarly situated,
Plaintiffs,

17 v.

18 **THE GEO GROUP, INC.,**
19 *Defendant.*

Civil Action No. 5:17-cv-02514-JGB-SHKx

**PLAINTIFFS' NOTICE OF
MOTION AND MOTION TO
APPROVE CLASS NOTICE PLAN
AND FORM OF NOTICE;
MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT
THEREOF**

Date: September 14, 2020
Time: 9:00 am PST
Courtroom: Riverside, Courtroom 1
Judge: Hon. Jesus G. Bernal

The Honorable Judge Jesus G. Bernal

1 **NOTICE OF MOTION**

2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that on September 14, 2020, or on such date as may
4 be specified by the Court, in the courtroom of the Honorable Jesus G. Bernal, United
5 States District Court for the Central District of California, George E. Brown, Jr. Federal
6 Building and United States Courthouse, 3470 Twelfth Street, Riverside, California,
7 92501-3801, Plaintiffs Raul Novoa, Jaime Campos Fuentes, Abdiaziz Karim, and Ramon
8 Mancía will and hereby do move for an order to approve Plaintiffs’ notice plan and form
9 of notice pursuant to Federal Rule of Civil Procedure 23(b)(3).

10 This motion is made based on Plaintiffs’ memorandum of points and authorities
11 in support thereof, which includes the declaration of Jennifer Keough, and all papers,
12 pleadings, documents, arguments of counsel, other materials presented before or during
13 the hearing on this motion, and any other evidence or argument the Court may consider.
14 This motion is made following the conference of counsel pursuant to L.R. 7-3 which
15 took place on July 27, 2020 and July 31, 2020.

16 The Court granted Plaintiffs’ Motion for Class Certification on November 26,
17 2019 (ECF No. 223, 229), certifying three classes of current and former civil immigration
18 detainees: the Adelanto Wage Class, the Adelanto Forced Labor Class (including the
19 Work Program Subclass and the Uncompensated Work Program Subclass) and the
20 Nationwide HUSP Class.

21 Plaintiffs hereby propose a notice plan for the Adelanto Wage Class and the
22 Adelanto Forced Labor Class for the Court’s approval so that class members may be
23 informed of the pendency of this action and their right to opt-out. The proposed form
24 of notice and notice plan constitute the best notice practicable under the circumstances
25

1 and satisfies the requirements of Federal Rule of Civil Procedure 23(c)(2)(B), providing
2 the requisite due process to the classes.

3 Class notice must concisely state in plain, easy-to-understand language: (i) the
4 nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues,
5 or defenses; (iv) that a class member may enter an appearance through counsel if the
6 member so desires; (v) that the court will exclude from the class any member who
7 requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the
8 binding effect of a class judgment on class members under Rule 23(c)(3). Fed. R. Civ. P.
9 23(c)(2)(B); *Sherman v. CLP Resources, Inc.*(Jan. 30, 2020), No. CV 12-11037-GW-PLAX)
10 2020 WL 2790098, at *11; *Krzęśniak v. Cendant Corp.*, No. C05-05156 MEJ, 2007 WL
11 4468678 (N.D. Cal. Dec. 17, 2007); *Whiteway v. FedEx Kinkos Office & Print Servs.*, No.
12 C05-2320 SBA, 2007 WL 1381514, at *2 (N.D. Cal. May 8, 2007). Plaintiffs’ notice plan
13 and form of notice satisfy these requirements.

14 Further, Plaintiffs’ notice plan satisfies due process requirements as class notice
15 is reasonably calculated to apprise interested parties of the pendency of the action and
16 afford them an opportunity to opt-out. *Mullane v. Cent. Hanover Bank & Trust Co.*, 339
17 U.S. 306, 314 (1950).

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1 **PLAINTIFFS’ MOTION TO APPROVE CLASS NOTICE PLAN AND**
2 **FORM OF NOTICE AND MEMORANDUM OF POINTS &**
3 **AUTHORITIES IN SUPPORT THEREOF**

4 Plaintiffs Raul Novoa, Jaime Campos Fuentes, Abdiaziz Karim, and Ramon
5 Mancia, by and through counsel, respectfully submit the following proposed Class
6 Notice Plan.

7 **I. INTRODUCTION**

8 1. The Court granted Plaintiffs’ Motion for Class Certification on November
9 26, 2019 (ECF No. 223, 229), certifying three classes of current and former civil
10 immigration detainees: the Adelanto Wage Class, the Adelanto Forced Labor Class
11 (including the Work Program Subclass and the Uncompensated Work Program
12 Subclass) and the Nationwide HUSP Class.

13 2. After a court certifies a class under Rule 23(b)(3), it must direct to class
14 members the best notice practicable under the circumstances. Fed. R. Civ. P. 23(c)(2)(B).
15 The purpose of the mandatory notice requirement in Rule 23(b)(3) actions is to present
16 a fair recital of the subject matter of the suit and to inform all class members of their
17 opportunity to be heard. *Hunt v. Check Recovery Sys., Inc.*, No.05-04993 MJJ, 2007 WL
18 2220972, at *3 (N.D. Cal. Aug. 1, 2007) (citing *In re Gypsum Antitrust Cases*, 565 F.2d
19 1123, 1125 (9th Cir. 1977)). The notice must concisely state in plain, easy-to-understand
20 language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class
21 claims, issues, or defenses; (iv) that a class member may enter an appearance through
22 counsel if the member so desires; (v) that the court will exclude from the class any
23 member who requests exclusion; (vi) the time and manner for requesting exclusion; and
24 (vii) the binding effect of a class judgment on class members under Rule 23(c)(3). Fed.
25 R. Civ. P. 23(c)(2)(B); *Krzesniak*, No. C05-05156 MEJ, 2007 WL 4468678 at *1; *Whiteway*
26 *v. FedEx Kinkos Office & Print Servs.*, No. C05-2320 SBA, 2007 WL 1381514, at *2 (N.D.
 Cal. May 8, 2007). A class notice must contain “information that a reasonable person

1 would consider to be material in making an informed, intelligent decision of whether to
 2 opt-out or remain a member of the class.” *Krzęśniak*, No. C05-05156 MEJ, 2007 WL
 3 4468678 at *1 (citing *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1105 (5th Cir.
 4 1977)).

5 3. The parties have conferred on several occasions (via telephone conference
 6 and email) regarding the proposed notice plan. Plaintiffs provided Defendant with
 7 copies of the class notice documents, the notice plan from the notice administrator, and
 8 a list of the outreach organizations that the notice administrator will use as one method
 9 to provide notice to class members. Plaintiffs have sought input from Defendant not
 10 only on the notice documents but also the process for notice. Plaintiffs have incorporate
 11 several of Defendant’s edits, comments, etc. into the notice documents, and the parties
 12 have resolved some disagreements. Based on that conferral, Plaintiffs propose a
 13 multifaceted Class Notice Plan (the “Notice Plan”) for the Adelanto Wage Class and the
 14 Adelanto Forced Labor Class,¹ which will be administered by an experienced notice plan
 15 administrator.

16 4. As described in more detail below, the Notice Plan includes efforts in both
 17 the United States and Mexico/Latin America. Efforts in the United States consist of a
 18 Summary Notice in Spanish in three leading Spanish language newspapers and a digital
 19 campaign through the leading digital network, Google Display Network (GDN),
 20

21 ¹ With respect to the Nationwide HUSP Class, Plaintiffs do not propose a notice plan because no notice
 22 is required. The Court certified the Nationwide HUSP Class pursuant to Federal Rule of Civil
 23 Procedure 23(b)(2). There is no nationwide class certified pursuant to FRCP 23(b)(3). And, where
 24 equitable relief is sought, a request for monetary relief does not destroy Rule 23(b)(2) status. *Murray*
 25 *v. Local 2620, Dist. Council 57, Am. Fed’n of State, Cty., & Mun. Employees, AFL-CIO*, 192 F.R.D. 629,
 26 636–37 (N.D. Cal. 2000); see *Molski v. Gleich*, 318 F.3d 937, 952, (9th Cir. 2003) (“Notice for a Rule
 23(b)(2) class is discretionary under Rule 23(d)(2)”); *Souza v. Scalone*, 64 F.R.D. 654, 658 (N.D. Cal.
 1974), *vacated on other grounds*, 563 F.2d 385 (9th Cir. 1977). (“Where the monetary relief sought is
 integrally related to and would directly flow from the injunctive or declaratory relief sought, 23(b)(2)
 status is appropriate.”).

1 targeting potential class members in several western states. Efforts in Mexico/Latin
2 America consist of Spanish radio and digital through GDN and the social media
3 platform Facebook. An e-mail effort to relevant third-party churches and relief
4 organizations, an internet search campaign, and the distribution of a press release will
5 extend notice exposure further. Efforts also include the creation of a dedicated class
6 website accessible to people within and outside the United States and a dedicated toll-
7 free phone number featuring IVR and live operator support in multiple dialects. The
8 Notice Plan also includes the posting of notice in the relevant facility by The GEO
9 Group, Inc. (“GEO”)—namely, the Adelanto ICE Processing Center.

10 5. Accordingly, Plaintiffs respectfully propose the following Notice Plan,
11 which will provide “the best notice practicable under the circumstances,” as required by
12 Federal Rule of Civil Procedure 23(c)(2)(B).

13 **II. PLAINTIFFS’ PROPOSED NOTICE PLAN**

14 a. **Notice Administrator.** Plaintiffs propose JND Legal Administration
15 (“JND”) as the Notice Administrator. JND is one of the leading legal administration
16 firms in the country.² JND’s class action division provides all services necessary for the
17 effective implementation of class action settlements including.³ The principals of JND
18 have over 75 years of experience in class action legal and administrative fields and have
19 overseen complex settlements and pendency actions involving inmate populations,
20 including: *Amador, et al. v. Baca, et al.*, No. 10-cv-01649 (C.D. Cal.); *In re Global Tel*Link*
21 *Corporation ICS Litigation*, No. 14-cv-05275 (W.D. Ark.); *McKibben, et al. v. McMabon, et al.*,
22 No. 14-cv-02171 (C.D. Cal.); *Mojica v. Securus Technologies, Inc.*, No. 14-cv-05258 (W.D.
23 Ark.); and *Nwanzor v. The GEO Group, Inc.*, No. 17-cv-05769 (W.D. Wash.).⁴ JND’s Legal
24

25 ² Exhibit 1, Declaration of Jennifer M. Keough regarding Proposed Notice Plan, at ¶¶ 1-9; Exhibit A.

26 ³ Exhibit 1, at ¶ 7.

⁴ Exhibit 1, at ¶ 8.

1 Notice team researches, designs, develops, and implements a wide array of legal notice
2 plans in order to meet the due process requirements of Rule 23 of the Federal Rules of
3 Civil Procedure and relevant state court rules.⁵

4 **b. Class Notice Documents.** Class Notice Documents shall be modeled
5 after and consistent with “The Federal Judicial Center’s Illustrative Forms of Class
6 Action Notices.” *See* Illustrative Forms of Class Action Notices: Overview, available at
7 [https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-](https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-introduction)
8 [introduction](https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-introduction) (last visited August 2, 2020). The Class Notice Documents will be in
9 English and/or translated into Spanish to correspond with the countries in which a
10 significant portion of the class members reside.⁶ Plaintiffs have provided Defendant with
11 drafts of the proposed Long Form and Short Form (print and radio) notices (collectively
12 the “Class Notice Documents”). Plaintiffs have incorporated several of Defendant’s
13 edits and comments to the Class Notice Documents. Accordingly, Plaintiffs submit the
14 Class Notice Documents to the Court for its approval:

15 i. The proposed Summary Notice,⁷ which is concise and written in
16 plain, easy-to-understand language. It provides a concise description
17 of the defined classes, along with a basic description of the nature
18 of the action and class claims. The Summary Notice informs each
19 class member: (1) of the binding effect of a class judgment on class
20 members; (2) that the Court will exclude from the classes any
21 member who requests exclusion and (3) that class members may
22 retain their own counsel. The Notice also provides a toll-free
23 telephone number and a website address through which individuals
24

25 ⁵ [Exhibit 1](#), at ¶ 9.

26 ⁶ Plaintiffs advise that the final versions of the Class Notice Documents will be translated into Spanish.

⁷ [Exhibit 1](#), at Exhibit B.

1 may contact the Notice Administrator, obtain contact information
2 for class counsel, and obtain a copy of the Exclusion Request Form
3 (among other documents).

- 4 ii. All proposed digital ads.⁸
- 5 iii. The proposed radio script.⁹
- 6 iv. The proposed press release.¹⁰
- 7 v. The proposed e-mail notice.¹¹
- 8 vi. The proposed Long Form Notice,¹² which also complies with Rule
9 23(b)(3) and is based upon the question and answer format
10 suggested by the Federal Judicial Center. The Long Form Notice
11 uses easy-to-understand language to provide additional information
12 about the lawsuit. The first substantive page of the notice provides
13 a basic description of the nature of the action. This information is
14 further explained in the Answers to Questions 1-5, which describe
15 the posture of the action; the class claims; the issues, allegations, and
16 Defendant's response; and the relief sought in the action. The
17 Answer to Question 6 provides a description of the defined classes,
18 offers guidance on how to determine class membership, and
19 informs class members that more information is available by visiting
20 the dedicated website or contacting the Notice Administrator. The
21 Answer to Question 7 provides information regarding class counsel
22 and explains that each class member may enter an appearance
23

24 ⁸ Exhibit 1, at Exhibit C.

25 ⁹ Exhibit 1, at Exhibit D.

26 ¹⁰ Exhibit 1, at Exhibit E.

¹¹ Exhibit 1, at Exhibit F.

¹² Exhibit 1, at Exhibit G.

1 through their own counsel if they so desire. The Answers to
2 Questions 8-10 provide an explanation of the rights of class
3 members, the binding effect of a class judgment, and the right to
4 opt-out of the class to avoid a binding judgment.

5 c. **Class Notification Process.** For due process purposes, class notice must
6 be reasonably calculated to apprise interested parties of the pendency of the action and
7 afford them an opportunity to optout. *Mullane v. Cent. Hanover Bank & Trust Co.*, 339
8 U.S. 306, 314 (1950). Here, the Notice Plan includes efforts in both the United States
9 and Mexico/Latin America. Efforts in the United States consist of a Summary Notice
10 in Spanish in three leading Spanish language newspapers and a digital campaign through
11 the leading digital network, Google Display Network (GDN), targeting potential class
12 members in several western states. Efforts in Mexico/Latin America consist of Spanish
13 radio and digital through GDN and the social media platform Facebook. An e-mail
14 effort to relevant third-party churches and relief organizations, an internet search
15 campaign, and the distribution of a press release will extend notice exposure further.
16 The Notice Administrator will also create a dedicated website accessible to people within
17 and outside the United States, and a toll-free number featuring IVR and live operator
18 support in multiple dialects. The Notice Plan further includes the posting of the
19 Summary Notice in English and Spanish at the Adelanto ICE Processing Center.
20 Specifically, the proposed Notice Plan includes the following components:

- 21 i. *Print Publication.*¹³ To reach potential class members, the Summary
22 Notice will be translated in Spanish and printed in the following
23 publications: *La Opinion*, *Excelsior Los Angeles (LA)* and *Orange County*,
24 and *El Chicano*. *La Opinion* is the leading daily Spanish language
25

26 ¹³ Exhibit 1, at ¶ 12.

1 newspaper in Los Angeles with an average weekday circulation of
2 over 45,000 subscribers. *Excelsior LA and Orange County* combined
3 are the largest weekly newspapers in southern California, with a total
4 weekly circulation of over 392,000 subscribers. *El Chicano* is a weekly
5 community newspaper with a circulation of 5,000 subscribers,
6 serving San Bernardino and the Inland Empire.¹⁴

7 ii. *Digital Media Campaign*.¹⁵ The Notice Administrator will implement
8 a regional digital campaign in eight western states including
9 California, New Mexico, Arizona, Nevada, Idaho, Montana,
10 Washington, and Oregon. The digital ads will target Spanish-
11 speaking adults 18-65 years of age, with an emphasis on men with
12 lower incomes. Over 16 million impressions will be served over a
13 four-week period across all devices, including desktop, laptop,
14 tablet, and mobile. The Notice Administrator will also implement a
15 targeted digital campaign in four Latin American countries including
16 Mexico, El Salvador, Guatemala, and Honduras. The digital ads will
17 target Spanish-speaking adults 18-65 years of age, with an emphasis
18 on men with lower incomes. Over 15 million impressions will be
19 served over a four-week period across all devices, including desktop,
20 laptop, tablet, and mobile. Search ads will also be served to users in
21 Mexico, El Salvador, Guatemala, and Honduras who search relevant
22 terms about the case on search engines such as Google. All digital

23 _____
24 ¹⁴ As the Manual on Complex Litigation explains: “[p]ublication in magazines, newspapers, or trade
25 journals may be necessary if individual class members are not identifiable after reasonable effort or as
26 a supplement to other notice efforts. For example, if no records were kept of sales of an allegedly
defective product from retailers to consumers, publication notice may be necessary.” Manual for
Complex Litigation § 21.311 at 288 (4th ed. 2004).

¹⁵ Exhibit 1, at ¶¶ 13-16.

1 ads will include a direct link to the case website where class members
2 may access more information about the litigation.

3 *iii. Radio Campaign.*¹⁶ The Notice Administrator will implement a
4 targeted radio campaign in five Latin American markets including
5 both Mexico City and Guadalajara, Mexico; San Salvador, El
6 Salvador; Guatemala City, Guatemala; and Tegucigalpa, Honduras.
7 A total of 140 thirty-second radio commercials, or 28 commercials
8 per market, will air on various radio station formats such as news,
9 talk and entertainment over a two-week period.

10 *iv. Press Release.*¹⁷ The Notice Administrator will execute a press release
11 of the Summary Notice to be distributed over PR Newswire. The
12 press release will be distributed to over 19,000 media outlets on the
13 following newlines: US1 in English, U.S. National Hispanic in
14 English and Spanish; Latin America in Spanish; and India in Hindi.

15 *v. Email Outreach.*¹⁸ The Notice Administrator will research third-party
16 immigration relief organizations and assistance groups and will
17 coordinate an e-mail outreach notice requesting their support in
18 notifying potential class members.

19 *vi. Dedicated Website.*¹⁹ An informational, interactive website
20 (www.GEOAdelantoClassAction.com) dedicated to the case will be
21 developed to enable potential class members to get information
22 about the litigation. The website will have an easy-to-navigate design
23 and will be formatted to emphasize important information and
24

25 ¹⁶ [Exhibit 1](#), at ¶ 17.

¹⁷ [Exhibit 1](#), at ¶ 18.

¹⁸ [Exhibit 1](#), at ¶ 19.

¹⁹ [Exhibit 1](#), at ¶¶ 20-22.

1 deadlines. Other available features will include an email contact
2 form, frequently asked questions page, and links to downloadable
3 copies of the Long Form Notice in English and Spanish, and other
4 important court documents. The website will be optimized for
5 mobile visitors so that information loads quickly on mobile devices
6 and will also be designed to maximize search engine optimization
7 through Google and other search engines. Key words and natural
8 language search terms will be included in the site's metadata in order
9 to maximize search engine rankings. The Notice Administrator will
10 establish and maintain a 24-hour, toll-free telephone line where
11 callers may obtain information about the case, with call center
12 associates available to answer and document calls in multiple
13 languages and dialects.²⁰

14 vii. *Opt-Out Deadline.* Any person who wishes to opt out of the class
15 action must do so by following the instructions for requesting
16 exclusion from the class as set forth in the Class Notice Documents.
17 All requests for exclusion must be mailed, emailed, or otherwise
18 transmitted to the Notice Administrator no later than seventy-five
19 (75) days after the press release is distributed or the requests for
20 exclusion shall be deemed void and ineffective.

22 ²⁰ Many courts have found the use of a website beneficial as part of a class action notice. *See Beck-Ellman*
23 *v. Kaz USA, Inc.*, No. 3:10-CV-02134-H-DHB, 2013 WL 1748729, at *7-8 (Jan. 7, 2013); *Johns v. Bayer*
24 *Corp.*, No. 09-cv-1935 AJB (DHB), 2013 WL 435201, at *1 (S.D. Cal. Feb. 1, 2013); *Lamb v. Bitech, Inc.*,
25 No. 3:11-dv-05583-EDL MED, 2013 WL 4013166, at *1 (N.D. Cal. Aug. 5, 2013); *Krzyszniak v. Cendant*
26 *Corp.*, No. C05-05156 MEJ, 2007 WL 4468678, at *2 (N.D. Cal. Dec. 17, 2007) (citing *Flanagan v. Allstate*
Ins. Co., No. 01 C 1541, 2007 WL 3085903, at *2 (N.D. Ill. Oct. 18, 2007); *Schwartz v. TXU Corp.*, No.
02-CV-2243-K, 2005 WL 3148350, at *11 (N.D. Tex. Nov. 8, 2005); *In re McKesson HBOC, Inc. ERISA*
Litig., 391 F. Supp. 2d 844, 848 (N.D. Cal. 2005)).

viii. *Report on Opt-Outs.* The Notice Administrator shall notify the parties of any opt-out within fourteen (14) days of receipt of a Request for Exclusion form. Within fifteen (15) days of the opt-out deadline calculated from the date of the initial mailing of the notice, class counsel shall file a report with the Court regarding opt-outs.

III. CONCLUSION

6. Accordingly, Plaintiffs respectfully move for an order approving Plaintiffs' plan and form of notice and order that notice be disseminated as follows:

Dedicated website goes live	12 calendar days after entry of order approving notice plan
Notice posted in Adelanto	14 calendar days after entry of order approving notice plan
Email outreach begins	14 calendar days after entry of order approving notice plan
Digital media campaign begins	14 calendar days after entry of order approving notice plan
Press release of the Summary Notice to be distributed over PR Newswire	14 calendar days after entry of order approving notice plan
Publication notice in newspapers begins	21 calendar days after entry of order approving notice plan
Radio campaign begins	28 calendar days after entry of order approving notice plan
Opt-out deadline	75 calendar days from campaign launch

1 Dated: August 4, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

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2 On August 4, 2020, I electronically submitted the foregoing document with the
3 clerk of the court for the U.S. District Court, Central District of California, using the
4 electronic case filing system. I hereby certify that I have provided copies to all counsel
5 of record electronically or by another manner authorized by Fed. R. Civ. P. 5(b)(2).
6
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