

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**KELLY BROWN AND DAVID GILLARD,**  
*individually and on behalf of all others similarly situated,*

*versus*

**DISCRETE WIRELESS, INC.,  
FLEETCOR TECHNOLOGIES OPERATING COMPANY, LLC,  
D/B/A NEXTRAQ®**

**CASE No.: 8:14-CV-01922-VMC-EAJ**

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT, THE HONORABLE VIRGINIA COVINGTON. THE COURT HAS MADE NO DECISION IN THIS CASE ABOUT THE MERITS OF PLAINTIFFS' CLAIMS OR DEFENDANTS' DEFENSES.**

**To: You** (*the person that this letter was addressed to*), along with present and past employees of DISCRETE WIRELESS, INC., and FLEETCOR TECHNOLOGIES OPERATING COMPANY, LLC, both of whom sold or sell NEXTRAQ® products, who are presently, or were employed, as a Saas Account Executive, Account Manager, or Business Development Representative and worked in excess of forty (40) hours in any week during the period October 28, 2011 through October 28, 2014.

**1. Purpose of this Notice**

You received this Notice because the Court has ordered you be notified about the existence of a collective action against your current or former employer. The Court wants you to know your rights under the Fair Labor Standards Act (the "FLSA"), overtime wage provisions may be affected by this lawsuit, and to instruct you on the procedure for participating in this lawsuit.

**2. Description of the Lawsuit**

Kelly Brown and David Gillard filed a lawsuit in the United States District Court for the Middle District of Florida on behalf of all similarly situated employees who are now or were employed by the named Defendants. The Representative Plaintiffs are suing on behalf of themselves and also on behalf of all other employees and former employees which they allege are or were "similarly situated," including employees who held the following titles: Saas Account Executive, Account Manager, and Business Development Representative. You are believed to have worked under one of these job titles for Discrete Wireless, Inc., or Fleetcor Technologies Operating Company, LLC, which sold or sell NEXTRAQ products. The Plaintiffs claim, through their lead attorney, Mitchell L. Feldman of Feldman Morgado, P.A., that You may have been denied

overtime wages for all hours you worked over 40 (in a given work week) because You do not qualify for exemptions under the Fair Labor Standards Act that would allow the Defendant to not pay you your overtime wages. Furthermore, the Plaintiffs claim that whether treated as exempt or non-exempt from overtime, inside sales representatives under any of the above titles used after FleetCor took control and purchased Discrete Wireless, Inc., were not paid for all overtime hours worked. Plaintiffs also allege that prior to the FleetCor purchase of Discrete Wireless, Discrete Wireless misclassified inside sales representatives as salaried exempt employees by not paying any overtime wage to such employees, willfully violated the FLSA and Plaintiffs seek recovery of all allegedly unpaid overtime hours worked for themselves and the class of allegedly similarly situated inside sales representatives.

Discrete Wireless and FleetCor are the defendants in this action and both deny the allegations in the plaintiffs' complaint. It is Discrete Wireless's and FleetCor's position that its inside sales representatives received all compensation owed to them. Discrete Wireless and FleetCor also claim that at all times they acted in good faith and that they did not violate the FLSA.

### **3. Your Legal Rights & Options**

#### **A. You May File Your Claim for Overtime Wages by Opting into this Lawsuit by executing the enclosed Consent form.**

If You wish to file a claim that will allow You to collect overtime wages should the case be successful for the Plaintiffs or should the claims be settled You **must** complete the enclosed Notice of Consent form and deliver it to:

**MITCHELL L. FELDMAN, ESQ.  
FELDMAN MORGADO, P.A.  
501 NORTH REO STREET  
TAMPA, FLORIDA 33602**

You must complete the Notice of Consent form, mailed and postmarked by [**February 7, 2014**], or You will **NOT** be allowed to participate in this lawsuit, including any settlement that is reached or any award of damages by the Court. As explained herein, you may alternatively email or fax the Consent form by the due date.

By "opting in," and filing your consent form, you gain the possibility of receiving money or benefits that may result from a trial or settlement in this case, but you give up your right to separately sue Defendants for the same legal claims brought in this lawsuit and you may be subject to discovery (including having to produce certain documents or be called to testify at a deposition. If you opt-in, your attorneys' fees and costs will be on a pure contingency basis, that is, you will not be charged any fees or costs regardless of the outcome. The Plaintiff attorneys will seek a court determined attorney's fee from any settlement or from any wages awarded by the Court or alternatively, the Defendants may be required to pay the attorneys' fees and costs directly upon any settlement or court award. **The decisions and agreements made and entered into by the Representative Plaintiffs will be binding on you if you join this lawsuit.**

Further, You should know that you will receive damages only if (1) You OPT IN and **JOIN** the lawsuit and, (2) the Court determines that Your claims are similar to others to be pursued as one lawsuit, and (3) the Court determines that the Defendant violated the law. If the case is settled, the Court will have to approve the fairness of the settlement.

### **B. You May Choose Not to Join the Lawsuit**

You are not required to join the lawsuit. It is your choice as to whether you wish join, by doing nothing, you retain your right to bring your own separate lawsuit against the named Defendants. However, if You do not participate in the lawsuit, You will not be eligible to receive any portion of any recovery that might be obtained by those who do join the lawsuit or settle it on a class wide basis.

### **C. Retaliation Against You is Forbidden and Unlawful under the Fair Labor Standards Act (FLSA).**

Federal law prohibits the Defendants from taking any adverse employment action against you, including terminating your employment, discriminating against You, altering your wages or the terms of your employment, or retaliating against you in any manner if those decisions are made because You have opted into this lawsuit by filing the consent form, or otherwise for making a claim for your overtime wages. Such conduct can be deemed an adverse employment action in violation of the FLSA. Filing an Opt In Consent Form, however, does not mean you do not still have to do Your job and follow the existing policies and work rules should You work for the Defendant, and Defendant may still discipline you (including terminating your employment) if you fail to perform your duties or follow the existing policies. If you believe you have been penalized, disciplined, punished, threatened, intimidated or discriminated against in any way as a result of your receiving this notification, your considering whether to complete and submit the Opt-in Consent Form, or having submitted the Opt-in Consent Form, you may report such conduct by using Payless' normal complaint procedures or by contacting the law firm of Feldman Morgado, P.A., at the numbers provided below.

### **D. Right to a Lawyer**

The named Plaintiffs, Kelly Brown and David Gillard, have hired the law firm of Feldman Morgado, P.A. to represent their interests and those who opt-in elect to have this firm represent them as well. You will not have to pay any attorneys' fees unless money is recovered for You. If there is a recovery, the attorney either will receive a percentage of that recovery or will seek to have their fees paid by the Defendants. You are not required by law to hire Feldman Morgado, P.A. and You may represent yourself or independently hire your own firm. Further information about this notice may be obtained by writing or calling counsel for the Representative Plaintiffs, or visiting the firm's website, at the address and contact information listed below.

To opt-in, you must complete the Opt-in Consent Form and send it by U.S. mail, fax, or email to:

MITCHELL L. FELDMAN, ESQ.  
FELDMAN MORGADO, P.A.  
501 NORTH REO STREET  
TAMPA, FLORIDA 33602  
PH: 813-639-9366  
Toll Free Hotline: 888-984-3549  
FX: 813-639-9376  
Email: [nextraqconsent@gmail.com](mailto:nextraqconsent@gmail.com)  
[www.floridatrialattorneys.net](http://www.floridatrialattorneys.net)

Counsel for the Representative Plaintiffs must file your Opt-in Consent Form with the Court by no later than **[February 7, 2014]**. **If you want to opt-in, please ensure that counsel receives your Opt-in Consent Form well before this date** or you may lose your right to opt-in. You should receive a confirmation from Feldman Morgado, P.A. that your consent form has been received and filed with the Court within approximately 14 days after you send it. If you do not receive this confirmation, Feldman Morgado, P.A. may not have received it and you should contact the law firm to avoid being foreclosed from participating in this suit. The Declaration of Consent to Join can also be found at the firm's website: [NEXTRAQOVERTIMECASE.COM](http://NEXTRAQOVERTIMECASE.COM).

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

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KELLY BROWN AND DAVID GILLARD,  
*individually and on behalf of all others similarly situated,*

Plaintiffs,

*versus*

DISCRETE WIRELESS, INC.,  
FLEETCOR TECHNOLOGIES INC,  
FLEETCOR TECHNOLOGIES OPERATING COMPANY, LLC,  
D/B/A NEXTRAQ®

CASE NO.: 8:14-CV-01922-VMC-EAJ

Defendants.

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**DECLARATION OF CONSENT TO JOIN**

I, \_\_\_\_\_ [please legibly provide your full legal name],  
elect to exercise my right to opt-in and join the above-styled Fair Labor Standards Act  
case.

I have worked as an inside sales representative for Discrete Wireless, Inc., or  
Fleetcor Technologies Operating Company, LLC and worked in excess of forty hours (40)  
in at least one week during the period October 28, 2011 through October 28, 2014 without  
receiving overtime compensation..

I am/was employed as an inside sales representative under the title or titles of  
\_\_\_\_\_ from \_\_\_\_\_  
date until \_\_\_\_\_ date.

I understand that by consenting to opt-into this case, I am authorizing the  
Representative Plaintiffs, Kelly Brown and David Gillard, and their attorneys, Mitchell L.  
Feldman, Esq. and Feldman Morgado, P.A., to prosecute this action on my behalf and to  
act as my agents. I also authorize Feldman Morgado to be my attorneys and to take any  
action in this case to pursue my claim for overtime wages under state or Federal laws. I  
understand that the Representative Plaintiffs could make significant decisions on my  
behalf, including the manner in which to conduct the litigation, the amount of any  
settlement, and whether to settle this case with DISCRETE WIRELESS, INC., and

**FLEETCOR TECHNOLOGIES OPERATING COMPANY, LLC, or proceed to trial. I herein agree to the class representatives to negotiate on my behalf.**

**I declare under penalty of perjury that the foregoing is true and correct.\* Executed on \_\_\_\_\_ [please provide today's date].**

**SIGNATURE:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**CITY, STATE, ZIP:** \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_

**EMAIL ADDRESS:** \_\_\_\_\_

\*This form does *not* need to be notarized.

**PLEASE MAKE SURE THAT ALL OF THE REQUESTED INFORMATION IS INCLUDED ON YOUR FORM AND THAT YOUR HANDWRITING IS LEGIBLE.**

**ONCE YOU HAVE COMPLETED YOUR FORM, PLEASE SEND IT VIA U.S. MAIL, FAX, OR EMAIL IT TO FELDMAN MORGADO, P.A. AND MITCHELL FELDMAN, ESQ., at the following email address as soon as possible: [nextraqconsent@gmail.com](mailto:nextraqconsent@gmail.com).**

**FELDMAN MORGADO MUST FILE YOUR CONSENT FORM WITH THE COURT BY NO LATER THAN [February 7, 2014].**

MITCHELL L. FELDMAN, ESQ.  
FELDMAN MORGADO, P.A.  
501 NORTH REO STREET  
TAMPA, FLORIDA 33602  
PH: 813-639-9366  
Toll Free Hotline: 888-984-3549  
FX: 813-639-9376  
Email: [nextraqconsent@gmail.com](mailto:nextraqconsent@gmail.com)  
[www.floridatrialattorneys.net](http://www.floridatrialattorneys.net)