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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ANTONIO MARTÍNEZ, and FELIPE
NUÑEZ TORRES,

Plaintiffs,

v.

JOSE GILBERTO SILVEIRA, an
individual; and DOES ONE through
TWENTY inclusive

Defendants.

CASE NO. 1:10-CV-0234-GSA

**ORDER RE: JOINT MOTION FOR
APPROVAL OF SETTLEMENT**

(Doc. 60)

On December 8, 2009, Plaintiffs, Antonio Martinez and Felipe Nunez Torres, filed a First Amended Complaint in the Merced County Superior Court naming Jose Gilberto Silveira as a Defendant. The FAC alleges eleven causes of action : (1) failure to pay minimum wage, 2) failure to provide tools and equipment, 3) liquidated damages for failure to pay minimum wage, 4) a violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”) 5) failure to pay overtime, 6) failure to provide rest breaks, 7) failure to provide meal periods, 8) failure to maintain time records, provide itemized statements, 9) failure to pay all wages due upon discharge, 10) restitution and injunctive relief, and 11) violations of Labor Code Private Attorney General Act. Defendant removed the action to this Court on February 10, 2010. (Doc. 1).

1 On September 10, 2010, this Court adopted the parties' stipulation and granted conditional
2 certification as an FLSA collective action. Potential class members were notified and their right to
3 opt-in was explained. Four additional Plaintiffs opted-in pursuant to the notification. On October
4 6, 2011, the parties entered into an agreement settling the claims of the two named Plaintiffs, as
5 well as all of the opt-in Plaintiffs. (Doc. 60).

6 The Court has reviewed the settlement and is inclined to adopt the agreement. However,
7 upon review of the pleadings, it appears that the agreement addresses the FLSA claims but not the
8 outstanding state law claims. If Plaintiffs intend to litigate the state law claims, the Court will
9 need to address class action requirements pursuant to Rule 23 of the Federal Rules of Civil
10 Procedure prior to approval of the settlement agreement. However, if these claims are dismissed,
11 the Court can proceed with FLSA action. Accordingly, within five days, Plaintiffs shall file a
12 status report outlining their intentions regarding the state law claims. Alternatively, Plaintiffs may
13 submit the requisite dispositional documents dismissing those causes of action and the case will
14 proceed according to the FLSA settlement approval process.

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18 IT IS SO ORDERED.

19 Dated: December 2, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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