

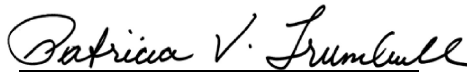


1 individual. The settlement agreement signed by the other eight Plaintiffs expressly states that those  
2 Plaintiffs are releasing their claims against the owners and employees of the corporate Defendants.  
3 Thus, all three settlement agreements, if found to be fair by the court, effectively settle Plaintiffs'  
4 claims against *all* Defendants, both corporate and individual.

5 IT IS FURTHER ORDERED that the further Case Management Conference is VACATED.

6 IT IS FURTHER ORDERED that the parties shall appear at 10:00 a.m. on March 23, 2010  
7 for a fairness hearing regarding the three settlement agreements. No later than March 16, 2010, the  
8 parties shall submit simultaneous briefs regarding the fairness of the settlements entered into by  
9 Plaintiffs. As Plaintiffs note in their reply brief, an employee's claims under the FLSA are non-  
10 waivable, and thus may not be settled without supervision of either the Secretary of Labor or a  
11 district court. *See Yue Zhou v. Wang's Restaurant*, 2007 WL 172308 at \* 1 (N.D.Cal. 2007); *see*  
12 *also, Lynn's Food Stores, Inc. v. United States, et al.*, 679 F. 2d 1350, 1352-53 (11<sup>th</sup> Cir. 1982). The  
13 proper procedure for court review and approval of any settlement of FLSA claims is for the parties to  
14 present the settlement agreement to the district court, after which the court may enter a stipulated  
15 judgment of dismissal after scrutinizing the settlement for fairness. *See Lynn's Food Stores, Inc.*,  
16 679 F. 2d at 1353; *see also Schulte, Inc. v. Gangi*, 328 U.S. 108, 113 n.8 (1946); *Jarrard v.*  
17 *Southeastern Shipbuilding Corporation*, 163 F.2d 960, 961 (5th Cir. 1947); *and* House Report No.  
18 101-664. In evaluating any such settlement, a court must determine whether the settlement is a fair  
19 and reasonable resolution of a *bona fide* dispute. *See, Lynn's Food Stores, Inc.*, 679 F. 2d at 1355.  
20 "If a settlement in an employee FLSA suit does reflect a reasonable compromise over issues, such as  
21 FLSA coverage or computation of back wages, that are actually in dispute[,] ... the district court  
22 [may] approve the settlement in order to promote the policy of encouraging settlement of litigation."  
23 *Id.* at 1355.

24 Dated: 2/22/10

25   
26 PATRICIA V. TRUMBULL  
27 United States Magistrate Judge  
28