

1 settlement of FLSA claims is for the parties to present to the court a proposed settlement, upon
2 which the district court may enter a stipulated judgment of dismissal only after scrutinizing the
3 settlement for fairness. *See Lynn's Food Stores, Inc.*, 679 F. 2d at 1353; *see also Schulte, Inc. v.*
4 *Gangi*, 328 U.S. 108, 113 n.8 (1946); *Jarrard v. Southeastern Shipbuilding Corporation*, 163 F.2d
5 960, 961 (5th Cir. 1947); *and* House Report No. 101-664. In reviewing the fairness of such a
6 settlement, a court must determine whether the settlement is a fair and reasonable resolution of a
7 *bona fide* dispute. *See, Lynn's Food Stores, Inc.*, 679 F. 2d at 1355. "If a settlement in an employee
8 FLSA suit does reflect a reasonable compromise over issues, such as FLSA coverage or computation
9 of back wages, that are actually in dispute[,] ... the district court [may] approve the settlement in
10 order to promote the policy of encouraging settlement of litigation." *Id.* at 1355.

11 IT IS FURTHER ORDERED that, no later than March 9, 2010 the parties shall file a short
12 joint statement in support of the motion to approve the settlement. The statement shall include: 1) a
13 rough estimate of the amount in dispute for Plaintiff Castillo; 2) the general basis for any *bona fide*
14 factual dispute as to either the nature of Plaintiff Castillo's primary duties or the number of overtime
15 hours actually worked by Plaintiff Castillo; 3) the amount of settlement proceeds to be paid to
16 Plaintiff Castillo; and 4) the amount of attorneys fees to be paid to Plaintiffs' counsel by Defendants
17 under the settlement agreement (*see, e.g., Dail v. George A. Arab, Inc.*, 391 F.Supp.2d 1142, 1145
18 (M.D. Fla. 2005) (approving parties' agreement as to attorneys fees award in connection with
19 approving fairness of settlement)).

20 IT IS FURTHER ORDERED that this order is without prejudice to the parties filing a
21 stipulated dismissal pursuant to Federal Rules of Civil Procedure 41(a)(1) on or before March 9,
22 2010.²

23 Dated: 2/22/10

24 
25 PATRICIA V. TRUMBULL
United States Magistrate Judge

26 _____
27 ² The court expresses no opinion regarding the *res judicata* effect of any such dismissal,
28 in light of the non-waivability of FLSA claims, or on whether such a stipulated dismissal would
nonetheless constitute a failure to prosecute, warranting dismissal without prejudice under Federal Rules
of Civil Procedure 41(b). *See Valencia v. French Connection Bakery, Inc.*, 2008 WL 152228, *2 (N.D.
Cal. January 15, 2008).