

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. **12-cv-2603-JLK**

JENNIFER DAMITIO, on behalf of herself and all similarly situated persons,

Plaintiff,

v.

SUSHI ZANMAI INCORPORATED, a Colorado corporation, **NAOTA KANDA** and
MASAO MAKI,

Defendants.

ORDER GRANTING MOTION FOR APPROVAL OF *HOFFMAN-LAROCHE* NOTICE
PROCEDURE

Kane, J.

Before me is the parties' Stipulated Motion for Approval of *Hoffman-La Roche* Notice Procedure (the "Motion"), Doc. 32. Having read the Motion and being otherwise fully advised in the premises, I ORDER as follows:

1. Per 29 U.S.C. §216(b), I have conditionally certified a collective action defined as follows:

All current and former employees of any of the Defendants who worked at Sushi Zanmai or Amu Sake Bar restaurants and whose hourly wage was reduced by some percentage of the applicable tip credit at any time from October 1, 2009 to present.

2. The proposed Collective Action Notice submitted by the parties, Doc. 32-1, is approved with the following modification: The answer in paragraph seven (7) on page three (3) as submitted by the parties leads with "Your immigration status is irrelevant..." That phrase shall be replaced with "Undocumented workers are included in the class of persons eligible for potential recovery

in this lawsuit,” and may continue as submitted by the parties. The amended answer shall read:
“Undocumented workers are included in the class of persons eligible for potential recovery in this lawsuit and retaliation by Sushi Zanmai, Inc. for participating in this lawsuit to recover any money you are owed is prohibited by law.”

3. Within three (3) days from the date this Order is entered, and to the extent such a list has not already been provided, Defendants shall provide to Plaintiff’s counsel a list of all potential collective action members. The list shall include each such employee’s name, dates of employment, last-known address and telephone number.

4. No later than seven (7) days following the date of this Order, Plaintiff shall send by First Class U.S. Mail the notice to the last known address of each of the individuals identified in paragraph No. 3 of this Order. Plaintiff’s Counsel has a duty to notify Defendants’ counsel of the post-mark date on which the notice is sent.

5. Any individual to whom notice is sent and who chooses to join the lawsuit shall “opt-in” by written consent to this Court within forty-five (45) days from the postmark date of the notice.

DATED: August 22, 2013

BY THE COURT:

s/John L. Kane
John L. Kane, U.S. Senior District Judge