

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 13-cv-02309-REB-MJW

WALTER ORLANDO MANCIA RIVERA, on behalf of himself and all others similarly situated,

Plaintiffs,

v.

CARNICERIA Y VERDULERIA GUADALAJARA INC; and
SERGIO EVANGELISTA

Defendants.

**ORDER GRANTING JOINT MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED 29 U.S.C. § 216(b) COLLECTIVE AND
FED. R. CIV. P. 23(e) CLASS ACTION SETTLEMENT**

This matter is before the Court on the parties' **Joint Motion for Preliminary Approval of Proposed 29 U.S.C. § 216(b) Collective and Fed.R. Civ. P. 23(e) Class Action Settlement** [#78],¹ filed April 3, 2015. Having reviewed and considered the motion; the Settlement and Release Agreement between plaintiffs and defendants (the "Settlement Agreement," attached as Exhibit 1 to the motion); the proposed notices, claim forms, and opt-out forms; and the pertinent portions of the entire record in this litigation to date, I hereby grant the motion, certify the proposed settlement classes, grant preliminary approval of the settlement, and set this matter for a final fairness hearing.

THEREFORE, IT IS ORDERED as follows:

¹ "[#78]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

1. That the parties' **Joint Motion for Preliminary Approval of Proposed 29 U.S.C. § 216(b) Collective and Fed.R. Civ. P. 23(e) Class Action Settlement** [#78], filed April 3, 2015. is granted;

2. That a settlement class for claims brought pursuant to 29 U.S.C. § 216(b) (the "FLSA Class") is preliminarily certified; thus, collectively, the FLSA Class and the previously certified Rule 23 Class (**see Order Granting Joint Motion for Class Certification Under Fed. R. Civ. P. 23 and Approval of FLSA Tolling** [#49], filed April 24, 2014) will be referred to as the "Settlement Class" or the "Class";

3. That Edward Siegel, Esq., Alexander Hood, Esq., and Andrew Schmidt, Esq., all of Towards Justice, are approved preliminarily as class counsel for the Class pursuant to Fed. R. Civ. P. 23(e);

4. That Walter Orlando Mancía Rivera is approved preliminarily as the class representatives for the Class pursuant to Fed. R. Civ. P. 23(e);

5. That the following class of individuals is approved preliminarily to constitute both the FLSA class and the Settlement Class as a whole:

ALL CURRENT AND FORMER NON-EXEMPT EMPLOYEES OF
DEFENDANTS WHO WORKED IN CARNICERIA Y VERDULERIA
GUADALAJARA, INC.'S MARKETS;

6. That Vantage Settlement Advisory Group, a Division of Vantage Financial Group, Inc., is appointed to serve as the Settlement Administrator;

7. That, if they have not already done so, defendants shall immediately provide the Settlement Administrator with the last known mailing address for each member of the Settlement Class;

8. That the form and content of the proposed English language Notice, Claim Form and Opt Out Form, attached as Exhibits 3, 4, and 5, respectively, to the motion, as

well as the Spanish language versions of such forms, attached as Exhibits 3A, 4A, and 5A, respectively, to the same motion, are approved;

9. That the Settlement Administrator shall mail the Notice, Claim Form, and Opt-out Form, in Spanish and in English, by first class mail, to each class member within **ten (10) days** of the entry of this Order;

10. That the mailing of the Notice shall commence the beginning of a **sixty (60) day** Class Notice Period;

11. That the Settlement Administrator shall place an advertisement, in English and in Spanish, in the legal notices section of *El Semanario*, a Denver-area Spanish-language newspaper, consisting of the Class Notice at the commencement of the sixty (60) day Class Notice Period, which advertisement shall run for **fourteen (14) days**;

12. That defendants shall post a copy of the Class Notice, in English and in Spanish, on bulletin boards in areas readily and routinely available for review by potential class members and shall distribute the Class Notice and claim forms in pay envelopes of all employees for the pay period ending immediately after the entry of this Order;

13. That the court finds that the mailing of the Notice to the Settlement Class, the placement of the advertisement in the legal notices section of *El Semanario*, the placement of the Notice on bulletin boards in defendants' place of business, and the placement in pay envelopes, are the only notices required and that such procedure satisfies the requirements of due process and Fed. R. Civ. P. 23(e)(1);

14. That any Settlement Class member who wishes to make a claim must mail, fax, or e-mail the Claim Form to the Settlement Administrator and that all Claim Forms must be postmarked or received by the Settlement Administrator no later than **sixty (60) days** after the Class Notice is mailed to be effective;

15. That any Settlement Class Member who desires to exclude himself or herself from the action must mail, e-mail or fax the Opt-out Form to the Settlement Administrator and that any such opt-outs must be postmarked or received by the Settlement Administrator no later than **sixty (60) days** after the Class Notice is mailed to be effective;

16. That any Settlement Class Member wishing to object to the Settlement shall be required to follow the procedures set forth in the Class Notice, including filing and serving any objections on plaintiffs' counsel, no later than **forty (40) days** from the original mailing of the Class Notice;

17. That the parties shall file a joint memorandum in support of final approval of the settlement within **twenty-one (21) days** after the end of the Class Notice Period, which memorandum shall be accompanied by a proposed form of order;

18. That class counsel and defendants may file responses to any objection contemporaneously with any motion for final settlement approval;

19. That any motion for attorney fees and costs shall be filed no later than **June 12, 2015**; provided further, that any such motion must be accompanied by a proposed form of order; and

20. That a hearing to consider final approval of the proposed settlement and any request for attorney fees and costs shall be held on **Friday, July 31, 2015**, at **11:00 a.m.** (MDT), in the Alfred A. Arraj United States Courthouse Annex, 901 19th Street, Courtroom A1001, Denver, Colorado 80294.

Dated April 9, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge