

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GABRIELA ROSALES, on behalf of
herself and others similarly situated,

Plaintiff,

v.

Case No: 2:15-cv-00711-SPC-CM

EL MICHOACANO, LLC, a Florida
Limited Liability Company, d/b/a EL
TARASCO MEXICAN
RESTAURANT,

Defendant.

ORDER¹

This matter comes before the Court on review of Plaintiff Gabriela Rosales' Filing of Proposed Class Notice ([Doc. 28](#)), and the parties' Joint Motion to Stay Issuance of Notice. ([Doc. 29](#)).

This case involves minimum wage and overtime wage claims under the Fair Labor Standards Act ("FLSA"), [29 U.S.C. § 201](#) et. seq. Plaintiff filed this action on behalf of herself and similarly situated individuals against Defendant, the owner and operator of a Cape Coral, Florida restaurant. ([Doc. 1](#)). The Court conditionally certified Plaintiff's FLSA Collective Action and directed the parties to file a Joint Notice to Potential Class Members ([Doc. 27](#)). Plaintiff has since submitted a proposed Notice ([Doc. 28](#)), and Defendant has

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made no objections. Upon review, the Court finds Plaintiff's Notice consistent with prior guidance, and hereby approves Plaintiff's Notice.

The issues facing the Court, however, do not end there. After the Plaintiffs filed their Motion for Conditional Certification, but before the Court issued a ruling, the Department of Labor ("DOL") initiated its own suit against the Defendants in the Middle District of Florida. See *Hugler v. El Michoacano, LLC et al.*, 2:16-cv-526-ftM-99MRM. Importantly, that case involves the same class of employees as the instant matter, and settlement negotiations are now ongoing. (Doc. 29 at ¶ 9). As a result, the parties have now jointly moved for a ninety ("90") day stay on issuing the Notice so that they may continue discussions and possibly reach a resolution in both cases. (Doc. 29 at ¶ 11).

"The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket." *Lopez v. Miami-Dade Cty.*, 145 F. Supp. 3d 1206, 1208 (S.D. Fla. 2015) (quoting *Clinton v. Jones*, 520 U.S. 681, 706 (1997)). In deciding, the court considers whether the stay would cause "prejudice to the non-moving party, whether the requested stay would simplify and clarify the issues, and whether the potential stay would reduce the burden of litigation on the parties and on the court." *Mackiewicz v. Nationstar Mortg., LLC, No. 615CV465ORL18GJK, 2015 WL 11983233, at *1 (M.D. Fla. Nov. 10, 2015)*

Here, the Court finds the 90-day stay warranted. As indicated by the parties and as far as the Court can discern, the stay will not result in prejudice toward either the Plaintiffs or the Defendants. The eligible opt-in parties in this case are also covered in the case brought by the DOL. Additionally, the Court agrees with the parties in finding


that the stay will prevent any potential conflict of interests, which may, in turn, lead to a speedier resolution on all fronts.

Accordingly, it is now

ORDERED:

1. Plaintiff's Notice of Filing Proposed Class Notice ([Doc. 28-1](#)) is **APPROVED**.
2. Joint Motion for Approval of Proposed Notice Pursuant to [29 U.S.C § 216\(b\)](#) is **GRANTED**. The Notice ([Doc. 28-1](#)) shall be provided accordingly:
 - a. Beginning on July 3, 2017, Plaintiff shall be responsible for sending the approved Notice to all potential collective members by first class mail.
 - b. All opt-in collective members are required to return the consent form to Plaintiff's counsel with a postmark date no later than September 1, 2017.
 - c. Plaintiff's counsel shall furnish a copy of all consents received to defense counsel and maintain the originals.
 - d. Plaintiff's counsel shall file one pleading identifying each opt-in collective member and his or her address by September 11, 2017.

DONE and **ORDERED** in Fort Myers, Florida on this 4th day of April, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record.