

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-61103-CIV-UNGARO/SIMONTON
CONSENT CASE

MIGUEL A. LOPEZ,

Plaintiff,

v.

ECOLABS, INC.,

Defendant.
_____ /

ORDER

This matter is before the Court upon the Parties' Joint Motion to Approve Settlement Agreement [D.E. 26]. The Parties have submitted a Settlement Agreement to this Court for this approval. However, this case involves a claim for unpaid overtime compensation under the Fair Labor Standards Act, 29 U.S.C. §201, et seq ("FLSA"). In reviewing a settlement of an FLSA private claim, a court must "scrutiniz[e] the settlement for fairness," and determine that the settlement is a "fair and reasonable resolution of a bona fide dispute over FLSA provisions." *Lynn Food Stores v. United States*, 679 F.2d 1350, 1352-53 (11th Cir. 1982). A settlement entered into in an adversarial context where both sides are represented by counsel throughout litigation "is more likely to reflect a reasonable compromise of disputed issues." Id. The district court may approve the settlement in order to promote the policy of encouraging settlements of litigation. *Id.* at 1354.

On January 14, 2009, the undersigned directed the Plaintiff to file statement of claim by January 30, 2009 and directed the Defendant to file a response within ten days of Plaintiff's filing its statement [D.E. 21]. Neither Party complied with the undersigned's order, and thus the undersigned is unable to determine whether the Settlement Agreement submitted by the Parties represents a "fair and reasonable resolution" of Plaintiff's FLSA

claim as required by the Eleventh Circuit in *Lynn Food Stores*.

Accordingly, it is hereby

ORDERED that on or before March 3, 2009, Plaintiff shall file a statement of claim setting forth the amount of alleged unpaid wages, the calculation of such wages, and the nature of the wages.

DONE AND ORDERED at Miami, Florida, this 25th day of February, 2009.



ANDREA M. SIMONTON
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
All counsel of record via CM/ECF