

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 08-61728-CIV-O'SULLIVAN
[CONSENT]

FERNANDO BORGES,
and all others similarly situated
individuals,
Plaintiff,

v.

THE KEISER SCHOOL, INC.,
a Florida corporation,
Defendant.

**ORDER APPROVING SETTLEMENT AGREEMENT AND
DISMISSING CASE WITH PREJUDICE**

THIS MATTER came before the Court on the Joint Motion for Approval of Settlement, Motion to Dismiss Case with Prejudice and Supporting Memorandum of Law (DE# 29, 2/23/09) and the Court having conducted a hearing concerning the settlement.

THE COURT has heard from counsel and considered the terms of the Settlement Agreement, the pertinent portions of the record, and is otherwise fully advised in the premises.

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 settlement of litigation. *Id.* at 1354.

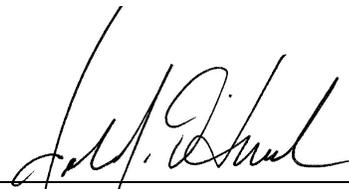
In this case, there are bona fide factual and legal disputes, as evidenced by the claims alleged and defenses alleged in the pleadings. The Court has reviewed the terms of the Settlement Agreement including the amount to be received by the plaintiff and the attorney's fees and costs to be received by counsel and finds that the compromise reached by the parties is a fair and reasonable resolution of the parties' bona fide disputes. Accordingly, it is

ORDERED AND ADJUDGED that Joint Motion for Approval of Settlement, Motion to Dismiss Case with Prejudice and Supporting Memorandum of Law (DE# 29, 2/23/09) is **GRANTED**. It is further

ORDERED AND ADJUDGED that the parties' Settlement Agreement (including attorney's fees and costs) is hereby **APPROVED**. It is further

ORDERED AND ADJUDGED that this case is dismissed with prejudice.

DONE AND ORDERED, in Chambers, at Miami, Florida this **23rd** day of February, 2009.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
All counsel of record