

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 10-61528-CIV-O'SULLIVAN

[CONSENT]

JOSE LAINEZ-LOZADA,

Plaintiff,

v.

LINTING FOOD SERVICES, INC.
d/b/a CHINA GARDEN RESTAURANT
and KIM WONG,

Defendants.

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

THIS MATTER came before the Court following notice from the parties that the case has settled 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.

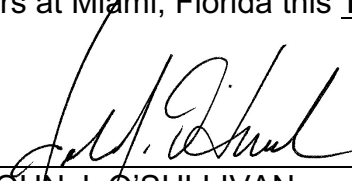
In this case, there is a bona fide legal dispute over whether the defendants meet the \$500,000 jurisdictional requirement of the FLSA and a factual issue as to whether the plaintiff was in fact properly compensated when taking into account tips. The Court has reviewed the terms of the Settlement Agreement 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 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**. The Court **retains jurisdiction until Tuesday, November 1, 2011** to enforce the terms of the settlement.

The Clerk of Court is directed to mark this case as CLOSED.

DONE AND ORDERED in Chambers at Miami, Florida this **14th** day of September, 2011.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies to:
All counsel of record