

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-62069-CIV-ROSENBAUM/SELTZER

NESTOR ROBLES, JOVANNI ULLOA,  
and CLAUDIA VAZQUEZ,

Plaintiffs,

v.

RFJD HOLDING CO., INC., d/b/a Emmaculate  
Reflections, and GERALD DONATH,

Defendants.

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**ORDER APPROVING OFFER OF JUDGMENT IN FLSA CASE**

This matter is before the Court upon Plaintiffs' acceptance of Defendants' Offer of Judgment pursuant to Federal Rule of Civil Procedure 68 [D.E. 97]. The Court has considered the filing and the pertinent portions of the record and is otherwise fully advised in the premises.

On September 20, 2011, Plaintiffs Robles and Ulloa sued Defendants for violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA"). D.E. 1. On November 23, 2011, Plaintiff Vazquez joined the suit against Defendants for violations of the FLSA. D.E. 9. On June 17, 2013, Defendants made Plaintiffs a timely offer of judgment pursuant to Rule 68. See D.E. 97-1. The next day, June 18, 2013, Plaintiffs notified the Court of their acceptance of Defendants' offer. D.E. 97.

Because this is a suit brought to recover unpaid wages under FLSA, the Court has an independent duty to review the terms of Defendants' offer of judgment and the Plaintiffs' acceptance of it. *Lynn's Food Stores v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982); *see also Kingsley v. Noonan*, 2012 WL 5378743, at \*1 (M.D. Fla. Oct. 31, 2012); *Dowell v. KIDZ R*

4 UZ, Inc., 2009 WL 113284 (M.D. Fla. Jan. 16, 2009) (finding that the acceptance of a Rule 68 offer of judgment in a FLSA case does not relieve the court of the duty to make the fairness finding required by *Lynn's Food*).

In the instant case, on June 17, 2013, Defendants offered to allow judgment to be entered against them in favor of Plaintiffs Robles and Ulloa in the amounts of \$16,224.00, each, plus costs and attorney's fees and in favor of Plaintiff Vazquez in the amount of \$797.50 plus costs and attorney's fees. D.E. 97-1. By serving an offer of judgment on Plaintiffs, Defendants, using Plaintiffs' estimations of damages obtained through discovery, determined that the offered amounts plus costs and attorney's fees were sufficient to cover any and all claims by Plaintiffs against Defendants for any and all unpaid minimum wages, overtime wages, liquidated damages, costs, and attorney's fees while still reserving their right to appeal the summary-judgment order issued by the Court on June 3, 2013.

The Court finds that this offer and acceptance of judgment constitutes a fair and reasonable resolution of a *bona fide* dispute between these parties under FLSA provisions. *See Lynn's Food Stores*, 679 F.2d at 1354. The judgment is to be entered without prejudice to Defendants' right to appeal the summary-judgment order entered by this Court on June 3, 2013. Accordingly, it is **ORDERED AND ADJUDGED** that Plaintiffs' acceptance of Defendants' Offer of Judgment pursuant to Federal Rule of Civil Procedure 68 [D.E. 97] is **APPROVED**. The Court will separately enter its Final Judgment in accordance with this Order.

**DONE AND ORDERED** in Fort Lauderdale, Florida, this 26th day of June 2013.

  
ROBIN S. ROSENBAUM  
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record