

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-23012-CIV-LENARD/O'SULLIVAN

MARIO RAMON HERNANDEZ,
MARITZA ZALDIVAR,

Plaintiffs,

v.

E and M BAKERY, INC., doing business as
La Sorpresa Catering, ERASMO F. MARTINEZ,

Defendants.

**ORDER APPROVING SETTLEMENT AGREEMENT AND
RECOMMENDING THAT THE CASE BE DISMISSED WITH PREJUDICE AS TO THE
CLAIMS OF PLAINTIFF MARITZA ZALDIVAR ONLY**¹

THIS MATTER came before the Court following a settlement conference before the undersigned 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 claims for minimum wage and 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

¹ The parties did not settle the claims of plaintiff Mario Ramon Hernandez.

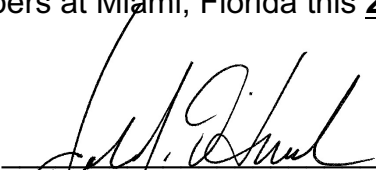
adversarial context where both sides are represented by counsel throughout litigation "is more likely to reflect a reasonable compromise of disputed issues." Id. The district court may approve the settlement in order to promote the policy of encouraging settlement of litigation. Id. at 1354.

In this case, there is a bona fide factual dispute over the amount of money that plaintiff Maritza Zaldivar was paid for each week. The Court has reviewed the terms of the settlement agreement including the amount to be received by plaintiff Maritza Zaldivar 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

RECOMMENDED that this case be dismissed with prejudice as to plaintiff Maritza Zaldivar only and that the Court **retain jurisdiction until December 5, 2011** to enforce the terms of the settlement.

DONE AND ORDERED in Chambers at Miami, Florida this **24th** day of October, 2011.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies provided to:
United States District Judge Lenard
All counsel of record