

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-23491-CIV-ALTONAGA/O'SULLIVAN

ALBERTO D. CABANAS
and other similarly-situated

Plaintiff,

v.

EL NUEVO GAUCHITO CORP.,
et al.,
Defendants.

/

**ORDER APPROVING SETTLEMENT AGREEMENT AND
RECOMMENDING THAT THE CASE BE DISMISSED WITH PREJUDICE**

THIS MATTER came before the Court on a hearing concerning the parties' settlement.

THE COURT has heard from counsel and has 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.

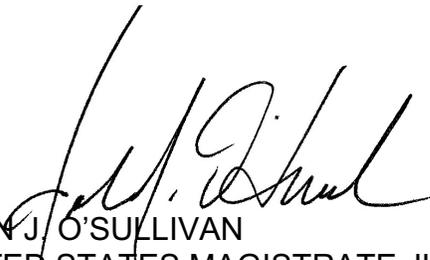
In this case, there are bona fide factual disputes as to the number of overtime hours worked by the plaintiff, if any, and why the plaintiff is no longer working for the defendant. Additionally, there is a bona fide factual and legal dispute as to whether the defendant's revenue brings it within the FLSA. 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

RECOMMENDED that this case be dismissed with prejudice and that the Court **retain jurisdiction until November 21, 2016** to enforce the terms of the settlement. It is further

RECOMMENDED that this case be **DISMISSED WITH PREJUDICE**.

DONE AND ORDERED in Chambers at Miami, Florida this 17th day of October, 2016.


JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

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