

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

NO. 09-80409-CIV-MARRA/JOHNSON

ERIC RUTENBERG,

Plaintiff,

v.

BOYNTON CAROLINA ALE HOUSE, LLC,  
a Florida Limited Liability Company,  
d/b/a CAROLINA ALE HOUSE,Defendant.  

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**ORDER AND OPINION**

THIS CAUSE came before the Court on Plaintiff Eric Rutenberg's ("Plaintiff" or "Rutenberg") Motion for Clarification Regarding Issue of Enterprise Coverage (DE 59), filed January 19, 2010. The Court has reviewed the motion, the record, and is otherwise duly advised in the premises.

Plaintiff, a former employee of Defendant Boynton Carolina Ale House, LLC, a Florida Limited Liability Company, d/b/a Carolina Ale House's ("Defendant" or "Carolina Ale House"), brought a claim against Defendant for recovery of overtime compensation under the Fair Labor Standards Act, 29 U.S.C. § 216(b) ("FLSA") (See Compl., DE 1). Plaintiff and Defendant filed cross-motions for summary judgment, which the Court denied in an Order dated January 8, 2010. See DE 58.


Defendant subsequently filed the instant motion, seeking clarification as to whether the Order denying the cross-motions for summary judgment resolved the issue of enterprise coverage

under the FLSA. The Order denying the cross-motions for summary judgment, stated that “there are genuine issues of material fact precluding summary judgment in favor of either party as to Plaintiff’s claim for overtime compensation under the Fair Labor Standards Act, 29 U.S.C. § 216(b), as alleged in the one-count Complaint.” See DE 58 at 10. The Court did not find, as a matter of law, that Defendant was an “enterprise” under the FLSA; that issue must be presented to the jury along with the other issues raised in the parties’ summary judgment motions.

Accordingly, it is hereby

**ORDERED AND ADJUDGED** as follows: Plaintiff’s Motion for Clarification Regarding Issue of Enterprise Coverage (DE 59) is **GRANTED IN PART AND DENIED IN PART**, consistent with this Order.

**DONE AND ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida, this 8<sup>th</sup> day of February, 2010.

  
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KENNETH A. MARRA  
United States District Court

Copies furnished to:  
all counsel of record