

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**JAMES BLACK, ET AL.,
Plaintiff**

CIVIL ACTION

VERSUS

NO. 16-2708

**DMNO, LLC, ET AL.,
Defendants**

SECTION: "E"

ORDER AND REASONS

Before the Court is Plaintiffs' motion for conditional class certification and judicial notice.¹ For the reasons set forth below, the motion is granted for good cause and in the interests of justice with the changes described below.

Plaintiffs requested the class be defined as:

- (1) You were employed as an hourly employee at Doris Metropolitan within the past three years and were not paid overtime, and/or
- (2) You were employed as a server at Doris Metropolitan, paid less than \$7.25 per hour in direct cash wages (e.g., you were paid \$2.13/hour), and you were required to tip out a portion of your tips to managers and/or owners/managers.

This definition would encompass all hourly workers at Doris Metropolitan, both front of house and back of house. The allegations of the Complaint² and memorandum in support of class certification³ center on servers and bartenders. The Fair Labor Standards Act ("FLSA") requires the action to be brought by similarly situated employees.⁴ The Court finds that the class should be limited to bartenders, servers, and assistant servers as they are the similarly situated employees.

¹ R. Doc. 12.

² R. Doc. 1.

³ R. Doc. 12-1.

⁴ 29 U.S.C. § 216(b).

IT IS ORDERED that this action is conditionally certified as an FLSA collective action until further ordered by this Court.

The class is defined as:

- (1) You were employed as a bartender and paid as an hourly employee at Doris Metropolitan within the past three years and were not paid overtime, and/or
- (2) You were employed as a server or assistant server at Doris Metropolitan, paid less than \$7.25 per hour in direct cash wages (e.g., you were paid \$2.13/hour), and you were required to tip out a portion of your tips to managers and/or owners/managers.

IT IS FURTHER ORDERED that Plaintiffs may, at their expense, notify other potential class members of this action using the Proposed Notice attached to Plaintiffs' reply memorandum in support of their motion for conditional class certification and judicial notice,⁵ modified to reflect the class definition set forth above. Plaintiffs shall use the Consent Form attached to Defendants' memorandum in opposition to the motion for class certification.⁶

New Orleans, Louisiana, this 29th day of November, 2016.



SUSIE MORGAN
UNITED STATES DISTRICT JUDGE

⁵ R. Doc. 30-1.

⁶ R. Doc. 28-2.