

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOSE MORALES, et al.,)	8:08CV88
)	
Plaintiffs,)	
)	
v.)	MEMORANDUM AND ORDER
)	
GREATER OMAHA PACKING)	
COMPANY, INC.,)	
)	
Defendant.)	
GABRIEL SANCHEZ CLAUDIO, et al.,)	8:08:CV161
)	
Plaintiffs,)	
)	
v.)	MEMORANDUM AND ORDER
)	
GREATER OMAHA PACKING)	
COMPANY, INC.,)	
)	
Defendant.)	

This matter is before the court on the motion of plaintiffs Jose Morales, et al., to certify the class in this case pursuant to Fed. R. Civ. P. 23. Filing No. 119. The plaintiffs filed a brief, Filing No. 120, and an index of evidence, Filing No. 121, in support of the motion. The defendant filed a brief, Filing No. 128, and an index of evidence, Filing No. 129, in opposition to class certification. The plaintiffs filed a brief, Filing No. 132, in reply. This case is consolidated with 8:08CV161. The magistrate judge determined that plaintiffs' motion for class certification should be granted in both cases. Filing No. 139 in 8:08CV88 and Filing No. 141 in 8:08CV161.¹ Defendant filed objections to these filings, Filing No. 141, and a brief in support of the objections, Filing No. 142. Defendants for the most part make the same arguments as previously made in its former motions to dismiss. The court has thoroughly reviewed the record, and in particular the findings of fact and conclusions of law as set forth by the magistrate judge,

¹All references to motions will be to Case Number 8:08CV88, but the analysis applies to both of these cases.

as well as the relevant law. The court finds the findings and recommendations of the magistrate judge should be adopted in their entirety.

The plaintiffs in both cases are current or former employees of the defendant. They filed this action pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and under state law alleging violations regarding pay for donning and doffing in connection with their job requirements. Plaintiffs previously filed a motion for conditional class certification which the court granted. See Filing No. 92. The defendant has filed two motions to dismiss which this court denied. Filing Nos. 107 and 137.

The court has carefully reviewed the objections of the defendant and finds them without merit.² The magistrate judge carefully analyzed the facts and the law. The court agrees with the findings of the magistrate judge in all respects and will adopt his findings and recommendations.

THEREFORE, IT IS ORDERED that:

1. Plaintiffs' motion to certify the class, Filing No. 119 (8:08CV88), is granted.
2. The magistrate judge's findings and recommendations, Filing No. 139 in 8:08CV88 and Filing No. 141 in 8:08cv161 are adopted in their entirety.
3. Defendant's objections, Filing No. 141 (8:08CV88), are overruled.

DATED this 17th day of March, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Judge

²The court notes that plaintiff has agreed to dismiss a couple of the named plaintiffs, apparently for using names other than their own. However, the magistrate judge found representation adequate as other plaintiffs exist to represent the class. This court agrees. In addition, defendant argues that plaintiffs have not made themselves available for discovery depositions. The court will leave this issue to the magistrate judge for determination but suggests that both sides fully cooperate in all required discovery.