

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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 EFRAIN DANILO MENDEZ, also known as
 Efrain D. Mendez-Rivera, ALDRAILY ALBERTO COISCOU,
 FERNANDO MOLINA, also known as
 Jorge Luis Flores Larios, SIRYI NAYROBIK MELENDEZ,
 DANIEL SANTE, RAMIRO CORDOVA, JUAN FLORES-
 LARIOS, and RENE ALEXANDER OLIVA, individually and
 on behalf of all others similarly situated,
 Plaintiffs,

ORDER
 12-CV-5583 (ADS)(SIL)

-against-

U.S. NONWOVENS CORP., SAMUEL MEHDIZADEH,
 also known as Solomon Mehdizadeh, SHERVIN
 MEHDIZADEH, and RODY MEHDIZADEH,

Defendants.

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APPEARANCES:

Steven John Moser, Esq.
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Attorneys for the Defendants
 277 Park Avenue
 New York, NY 10172
 By: Michael Craig Schmidt, Esq., Of Counsel

SPATT, District Judge.

On November 13, 2012, the Plaintiffs Efrain Danilo Mendez, also known as Efrain D. Mendez-Rivera, Aldrailly Alberto Coiscou, Fernando Molina, also known as Jorge Luis Flores Larios, Siryi Nayrobik Melendez, and Rene Alexander Oliva, individually and on behalf of all others similarly situated (collectively, the “original Plaintiffs”) commenced this action against the Defendants Samuel Mehdizadeh, also known as Solomon Mehdizadeh, Shervin Mehdizadeh, and Rody Mehdizadeh (collectively, the “Defendants”). The original Plaintiffs sought to recover unpaid overtime compensation allegedly owed to them, and others similarly situated, by the Defendants under the Fair

Labor Standards Act (“FLSA”), 29 U.S.C. §§ 207 and 216(b); New York Labor Law (“NYLL”) §§ 190 *et seq.*; and 12 New York Codes, Rules and Regulations (“NYCRR”) § 144-2.2.

On September 16, 2013, the original Plaintiffs made a motion to conditionally certify a collective action pursuant to FLSA § 216.

On November 15, 2013, United State Magistrate Judge William D. Wall granted the original Plaintiffs’ motion to conditionally certify a collective action pursuant FLSA § 216 but requested further briefing on the issue of notice to the potential members of the collective action.

On March 12, 2014, the original Plaintiffs filed an amended complaint adding Daniel Sante, Ramiro Cordova and Juan Flores-Larios (together with the “original Plaintiffs,” the “Plaintiffs”).

On April 24, 2014, Judge Wall approved a proposed notice form for the potential members of the collective action.

Presently before the Court is a motion by the Plaintiff to certify (1) a class action pursuant to Fed. R. Civ. P. 23; and (2) a motion by the Defendants to de-certify the conditionally certified collective action pursuant to FLSA § 216.

“A motion to authorize a collective action, unlike a motion for class certification pursuant to Rule 23 of the Federal Rules of Civil Procedure, is a non-dispositive motion upon which a Magistrate Judge has authority to rule.” Harper v. Gov’t Employees Ins. Co., 826 F. Supp. 2d 454, 456 (E.D.N.Y. 2011) (citing Gortat v. Capala Bros., Inc., 2010 WL 1423018 *8 (E.D.N.Y.2010)); see also Lujan v. Cabana Mgmt., Inc., 284 F.R.D. 50, 56 (E.D.N.Y. 2012) (a magistrate judge deciding a motion to decertify a collective action). Thus, a Magistrate Judge has the authority to decide a motion to decertify a collective action, as that is considered to be a non-dispositive motion.

Accordingly, Court hereby respectfully refers the Defendants’ motion to decertify the collective action pursuant to FLSA § 216 to United States Magistrate Judge Steven I. Locke, who shall decide this motion. This Court will decide the motion by the Plaintiff to certify a class action pursuant to Fed. R. Civ. P. 23, as that is considered to be a dispositive motion. The Clerk of Court is to note the referral.

SO ORDERED.

Dated: Central Islip, New York
September 19, 2015

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge