

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMIE FARRELL and GENNARO :  
SCOPO, on behalf of themselves and all :  
others similarly situated, :  
:

Plaintiffs, :

-against- :

LEC II, LLC d/b/a ONE LITTLE WEST :  
12<sup>th</sup> STREET, JONATHAN SEGAL and :  
CELESTE FIERRO, :

Defendants. :  
:

Civil Action No.: 08 CV 6438 (LBS)(DCF)

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**PROPOSED** ORDER PRELIMINARILY APPROVING CLASS ACTION  
SETTLEMENT AND PROVIDING FOR NOTICE

**WHEREAS**, the above-captioned matter (the “Wage Action”) is currently pending before this court;

**WHEREAS**, Plaintiffs have made application, pursuant to Rule 23 (e), Fed. R. Civ. P., for an order approving the settlement of the claims alleged in the Lawsuit, in accordance with a Joint Stipulation of Settlement and Release (“Agreement”) dated April 3, 2009 (the “Agreement”), which, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Wage Action against Defendants and for dismissal of the Wage Action against Defendants with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement and the exhibits thereto; and,

**WHEREAS**, all terms contained and not otherwise defined herein shall have the same meanings set forth in the Agreement.

IT IS ON THIS 19 DAY OF May, 2009 HEREBY ORDERED

AS FOLLOWS:

1. The Court hereby preliminarily approves the settlement set forth in the Agreement as being fair, just, reasonable and in the best interests of the Settlement Class as described in the Agreement (hereinafter the "Class").

2. The Court hereby preliminarily certifies the Class and finds that for purposes of the proposed settlement, the FLSA group is similarly situated, subject to the entry of the Final Order and Judgment as provided in the Agreement. For the purposes of settlement the Court further finds that and that the State Settlement Class meets the requirements for class certification under Federal Rule of Civil Procedure 23, subject to the entry of the Final Order and Judgment as provided in the Agreement.

3. The Court hereby preliminarily certifies Class Counsel, and Gennaro Scopo and Jamie Farrell as Class Representatives as described in the Agreement, subject to the entry of the Final Order and Judgment as provided in the Agreement.

4. The Settlement Hearing Shall be held before this Court, on Sept. 3, 2009 (at least 75 days after the entry of this Order) at the United States District Court, Southern District of New York, U.S. Courthouse, 500 Pearl Street, at 9:30 AM, New York, NY 10007, to determine whether the proposed settlement of the Wage Action on the terms and conditions provided for in the Agreement is fair, just, reasonable, adequate and in the best interests of the Class, and should be approved by the Court; whether an Order and Final Judgment of Dismissal, as provided in the Agreement, should be entered; and to determine the amount of attorneys' fees, costs and expenses that should be awarded Class Counsel.

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5. The Court approves, as to form and content, the Settlement Notice and finds that the mailing and distribution of the Settlement Notice substantially in the manner and form set forth in the Agreement constitutes the best notice practicable under the circumstances, and constitutes valid, due and sufficient notice to all persons in the Class, complying fully with the requirement of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States and any other applicable laws.

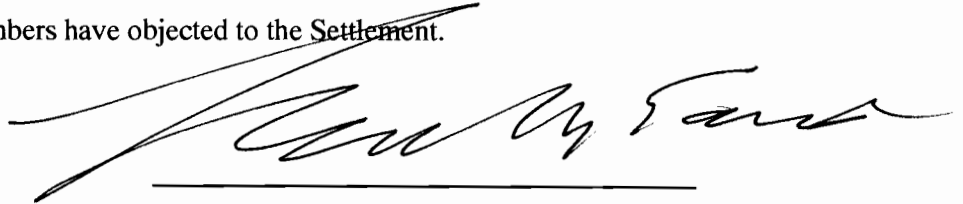
6. Within twenty (20) days after this Order is preliminarily approved, Class Counsel shall send the Class Notice and Consent to Join Forms to the Settlement Class members by mail to the Settlement Class members' addresses as they are maintained by the Defendants.

7. Settlement Class members shall have a deadline of 45 days after the mailing of Class Notice and Claims Forms for opting out of, or excluding oneself from, the state claim class action under Federal Rule of Civil Procedure 23.

8. Settlement Class members shall have a deadline of 45 days after the mailing of the Class Notice and Claims Forms for objecting to the terms of the settlement Agreement.

9. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed settlement. Notice of any adjournment can be obtained from Class Counsel: D. Maimon Kirschenbaum, Esq., 757 Third Avenue, Suite 2500, New York, NY 10017 (phone: 212-688-5640). The Court may approve the settlement, with such modifications as may be agreed to by the settling parties, if appropriate, without further notice to the Class.

10. On or before the date that is Seven (7) days before the final approval hearing, Class Counsel shall move the Court for final approval of the settlement, and submit a memorandum of law in support of Plaintiff Counsel's application for attorneys' fees and incentive awards. Class Counsel shall also notify the Court on or before this date how many Class Members have filed Consent to Join forms, how many Class Members have opted-out of the lawsuit, and how many Class Members have objected to the Settlement.



United States District Judge

Dated: 5 / 18, 2009