IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOSEPH MILLER, *et al.*,	:	**Consolidated 2013 Abuelo Cases:**
	:	
Plaintiffs,	:	**Case No. 2:13-CV-00124 (Miller)**
v.	:	**No. 2:13-CV-00125 (Crozier)**
	:	**No. 2:13-CV-00126 (Coleman)**
FOOD CONCEPTS	:	**No. 2:13-CV-00127 (Gibbs)**
INTERNATIONAL, LP, *et al.*,	:	**No. 2:13-CV-00129 (Johnson)**
	:	**No. 2:13-CV-00130 (Troyer)**
Defendants.	:	**No. 2:13-CV-00131 (Autrey)**
	:	**No. 2:13-CV-00132 (Tigner)**
	:	**No. 2:13-CV-00133 (McEldowney)**
	:	**No. 2:13-CV-00134 (Keegan)**
	:	
	:	**JUDGE ALGENON L. MARBLEY**
	:	
	:	**Magistrate Judge Abel**

ORDER

This matter is before the Court on the United States Magistrate Judge's **Report and Recommendation** (Doc. 36),[1] recommending that Plaintiffs' claims under the Fair Labor Standards Act ("FLSA") and breach of contract for wages and benefits, as well as Plaintiff Autrey's claims for hostile work environment against Defendants Del Vecchio, Food Concepts International, LP, and Abuelo's International LP, and Plaintiff Johnson's claim for discrimination, segregation of separation against defendants Del Vecchio, Food Concepts International, LP, and Abuelo's International LP be allowed to proceed; but that all other claims by Plaintiffs be dismissed with prejudice, on account of Plaintiffs' counsel's failure to tender Amended Complaints meeting the requirements of Fed. R. Civ. P. 8(a). (*Id.* at 72-73).

The Complaint in this case (Doc. 4) was filed February 12, 2013. Since then, Defendants have requested on three separate occasions that Plaintiffs file a Complaint that complies with the

[1] For simplicity, references to the docket refer to filings in *Miller v. Food Concepts Int'l LP*, No. 2:13-CV-00124.

basic notice requirements of Fed. R. Civ. P. 8(a), or for the case to be dismissed. (*See* Doc. 11, 14, 17). The Court has twice ordered Plaintiffs to file complaints that meet these requirements. (*See* Doc. 27, 30). Defendants' Motion to Dismiss (Doc. 17) for failure to comply with Court Order, under Fed. R. Civ. P. 41(b), remains pending before the Court. Plaintiffs' Amended Complaint was filed October 15, 2013 (Doc. 28), but its deficiencies compelled the Court to Order Plaintiffs to show cause why their lawsuit should not be dismissed. (Doc. 30).

As a result of that Order, the Magistrate Judge issued the Report and Recommendation *sub judice*. (Doc. 36). The Report and Recommendation discusses at length Plaintiffs' repeated failures to comply with the Court's Orders, as well as the allegations related to each Plaintiff. It concludes that Plaintiffs have succeeded in stating several causes of action, which should proceed, but have failed to comply with the pleading requirements of Fed. R. Civ. P. 8(a) with respect to all others. The Parties were specifically advised of their right to object to the Report and Recommendation, and of the consequences of their failure to do so. (*Id.* at 73). No objection has been filed.

Since neither party has objected, deadline for such objections elapsed on January 31, 2014, and this Court agrees with the Magistrate Judge's conclusion and analysis, the Court **ADOPTS** the Report and Recommendation. Plaintiffs' claims for violation of the FLSA and breach of contract for wages and benefits, Plaintiff Autrey's claims for hostile work environment against defendants Del Vecchio, Food Concepts International, LP, and Abuelo's International LP, and Plaintiff Johnson's claim for discrimination, segregation of separation against defendants Del Vecchio, Food Concepts International, LP, and Abuelo's International LP shall **PROCEED**. All other claims for: retaliation and/or discrimination in violation of O.R.C. §4112.02(1), O.R.C. §4112.99, and 42 U.S.C. §1981; aiding, abetting and interference with

discrimination in violation of O.R.C. §4112.02(1) and O.R.C. §4112.99; discrimination, segregation or separation because of ancestry, color, national origin, race or religion; harassment, hostile work environment; and, retaliation, discrimination, harassment, loss of tangible job benefits are **DISMISSED** with **PREJUDICE**.

In addition, in light of this Order, and the Court's Order permitting Plaintiffs to file an Amended Complaint (Doc. 27), Defendants' Motion to Dismiss (Doc. 17) is **DENIED**.

IT IS SO ORDERED.

s/ Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

DATED: February 18, 2014