

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH FIUMANO, for	:	
himself and all others similarly situated,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	NO. 17-465
	:	
METRO DINER MANAGEMENT	:	
LLC, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 10th day of April, 2018, it is **ORDERED** that Plaintiff’s Motion for Order Authorizing Notice to Similarly Situated Persons Pursuant to 29 U.S.C. § 216(b) (ECF No. 45) is **GRANTED IN PART** and **DENIED IN PART** as follows:

- Conditional certification is **GRANTED** as to Count I of the Amended Complaint;
- Conditional certification is **GRANTED** as to the portion of Count II of the Amended Complaint regarding the distribution of the tip pool proceeds to Hosts and Bussers;
- Conditional certification is **DENIED** as to the portion of Count II of the Amended Complaint regarding the distribution of the tip pool proceeds to non-tipped kitchen staff, managers or the “house”;
- Conditional certification is **DENIED** as to Count IV of the Amended Complaint;
- Plaintiff’s request that Defendant be ordered to refrain from communication with any Class member concerning this lawsuit is **DENIED WITHOUT PREJUDICE**; and

- The authorization of the sending of court-approved notice is **DENIED WITHOUT PREJUDICE** pending further briefing and a new proposed notice by Plaintiff, pursuant to a separate order.¹

s/Anita B. Brody

ANITA B. BRODY, J.

Copies **VIA ECF** on _____ to:

¹ The Court will address Plaintiff's proposed notice dissemination plan and the appointment of Class Counsel following the receipt of Plaintiff's additional briefing.