

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Anthony Girard, on behalf of himself and)
all others similarly situated,)
Plaintiff,) C.A. No.: 2:16-cv-2209-PMD
)
v.) **ORDER**
)
Fantasy Far East, Inc. d/b/a Miyabi)
Japanese Steakhouse, Capital Japan, Inc.)
d/b/a Miyabi, Koichiro Hirao, individually,)
Koichiro Maeda, individually, and John)
Doe 1–10, individually,)
Defendants.)

)

This matter is before the Court on Plaintiff's Motion for Conditional Certification (ECF No. 20). For the reasons set forth herein, Plaintiff's Motion for Conditional Certification is denied without prejudice.

“Local Civil Rule 7.02 provides that a moving party ‘must confer with opposing counsel and attempt in good faith to resolve the matter contained in the motion’ before filing a nondispositive motion.” *Fort v. Leonard*, No. 7:05-cv-1028-HFF-WMC, 2006 WL 1487034, at *1 (D.S.C. May 26, 2006) (quoting Local Civil Rule 7.02 (D.S.C.)). Plaintiff's motion contains the following statement: “Pursuant to Local Civil Rule 7.02, counsel for Plaintiffs could not timely consult with counsel for Defendants, but will do so after this is filed to determine if Defendants will consent.” (Pls.’ Mot. Conditional Class Certification, ECF No. 20, at 1.) Local Civil Rule 7.02 requires that the parties confer and attempt to resolve the motion **before** filing a nondispositive motion. *See Warman v. Am. Nat'l Standards Inst.*, --- F. Supp. 3d ---, 2016 WL 3647604, at *1 (S.D.N.Y. June 27, 2016) (“Motions for conditional certification are non-

dispositive.”). Local Civil Rule 7.02 was adopted in hopes that the parties might attempt to agree amongst themselves to an appropriate resolution. The Court emphasizes that such negotiation must take place before calling upon the Court’s time and resources. Accordingly, Plaintiff’s Motion is denied at this time, with leave to re-file if necessary.

CONCLUSION

For the foregoing reasons, it is **ORDERED** that Plaintiff’s Motion for Conditional Class Certification is **DENIED WITHOUT PREJUDICE**.

AND IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

September 26, 2016
Charleston, South Carolina