

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

ROBERT SPALLONE, on behalf of)
himself and all others similarly situated,)
)
Plaintiff,)
)
v.)
)
SOHO UNIVERSITY, INC.)
d/b/a SOHO 544; and JOHN DOE,)
individually,)
)
Defendants.)
_____)

C/A: 4:15-cv-1622-RBH

**RULE 16(a)(1)
ORDER**

The Plaintiff, Robert Spallone (“Spallone”), on behalf of himself and all others similarly situated, and all of the filed Opt-Ins to date (all jointly “Plaintiffs”) and Defendants Soho University, Inc. d/b/a Soho 544, (“Soho”); and John Doe (“Doe”) (Soho and Doe collectively “Defendants”), have jointly moved for an Order, pursuant to FRCP 16(a)(1), to stipulate to certain issues in an effort to streamline this action. Plaintiffs and Defendants have negotiated a compromise in which each is giving up certain rights, but each believes it is best for them in proceeding with this action. Thus,

IT IS ORDERED:

1. Plaintiffs will dismiss, with prejudice, their Third Cause of Action alleging violation of the South Carolina Payment of Wages Act.

2. In exchange for this dismissal, Defendants consent that Plaintiffs have, under their current first cause of action alleging violations of the FLSA, as an additional, available remedy to them, the ability to recover all tips he or she contributed to the one Tip Pool. This remedy is outlined in Fact Sheet #15 from the Wage & Hour Division of the U.S. Department of Labor.

This remedy, pursuant to this compromise and joint motion, is available for both actual damages and liquidated damages under the burdens of proof of actual damages and liquidated damages under the FLSA. This remedy is in addition to all other remedies available to Plaintiffs under the FLSA.

3. For the damages recovered for the tips contributed to the Tip Pool in section 2 above, and only for these damages, Plaintiffs will allow the Court to reduce these damages to a maximum of two (2) years. For all other damages, Plaintiffs retain the right to seek damages, if proven according to the FLSA, for three (3) years.

4. Neither this motion nor any of its content will be admissible to the jury.

IT IS SO ORDERED.

January 8, 2016
Florence, South Carolina

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge