

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CASSANDRA GREENE and ELIZABETH GOFF,
individually and on behalf of all other persons
similarly situated who were employed by C.B.
HOLDING CORP. d/b/a CHARLIE BROWN'S
STEAKHOUSE; CHARLIE BROWN'S
ACQUISITION CORP.; CHARLIE BROWN'S OF
COMMACK, LLC; CHARLIE BROWN'S OF
HOLTSVILLE, LLC; and/or any other entities
affiliated with or controlled by C.B. HOLDING
CORP. d/b/a CHARLIE BROWN'S
STEAKHOUSE; CHARLIE BROWN'S
ACQUISITION CORP.; CHARLIE BROWN'S OF
COMMACK, LLC; CHARLIE BROWN'S OF
HOLTSVILLE, LLC,

Plaintiffs,

- against -

C.B. HOLDING CORP. d/b/a CHARLIE
BROWN'S STEAKHOUSE; CHARLIE BROWN'S
ACQUISITION CORP.; CHARLIE BROWN'S OF
COMMACK, LLC; CHARLIE BROWN'S OF
HOLTSVILLE, LLC; and/or any other entities
affiliated with or controlled by C.B. HOLDING
CORP. d/b/a CHARLIE BROWN'S
STEAKHOUSE; CHARLIE BROWN'S
ACQUISITION CORP.; CHARLIE BROWN'S OF
COMMACK, LLC; CHARLIE BROWN'S OF
HOLTSVILLE, LLC; and SAMUEL BORGESE,

Defendants.

Docket No.: 10 cv 1094 (JBW)(CLP)

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR
MOTION FOR CONDITIONAL CERTIFICATION AND NOTICE TO THE CLASS**

PRELIMINARY STATEMENT

Virginia & Ambinder, LLP, together with Leeds, Morelli, and Brown, PC represent Elizabeth Goff and Cassandra Greene (“Named Plaintiffs”), and Martin Tello, the named Plaintiff added in the pending First Amended Complaint¹ (collectively “Plaintiffs”), opt-in Plaintiffs Hector Duarte, Christina Rieckehoff, and Patricia Rotelli (collectively “Opt-in Plaintiffs”), and a putative class in the above referenced wage and hour class action litigation. The Plaintiffs submit this application for an order permitting court supervised notification to putative class members pursuant to 29 U.S.C. § 216(b).

This action was brought to recover unpaid minimum wages and overtime compensation, and improperly withheld wages and tips, owed to Plaintiffs and members of the putative class who are presently or were formerly employed by C.B. Holding Corp. d/b/a Charlie Brown’s Steakhouse, Charlie Brown’s Acquisition Corp., Charlie Brown’s of Commack, LLC, Charlie Brown’s of Holtsville, LLC (these corporate entities are hereinafter referred to as “Charlie Brown’s”), and Samuel Borgese, and/or any other entities affiliated with or controlled by C.B. Holding Corp. d/b/a Charlie Brown’s Steakhouse, Charlie Brown’s Acquisition Corp., Charlie Brown’s of Commack, LLC, Charlie Brown’s of Holtsville, LLC, and Samuel Borgese, (collectively the “Defendants”).

FACTUAL BACKGROUND

¹ Generally, leave to amend a party’s pleading “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a). “The rule in this Circuit has been to allow a party to amend its pleadings in the absence of a showing by the nonmovant of prejudice or bad faith.” *Block v. First Blood Assoc.*, 988 F.2d 344, 350 (2d Cir. 1993). In light of this fairly lenient standard, and so as to not unduly complicate this Memorandum, Plaintiffs’ Memorandum of Law assumes, for purposes of this motion only, that this Court will grant Plaintiffs’ Motion to Amend the Complaint, which was submitted contemporaneously with the Motion for Conditional Certification. Thus, Plaintiffs’ Memorandum of Law includes and refers to Martin Tello as a named Plaintiff. To the extent that this assumption is premature or unwarranted, Plaintiffs respectfully request that this Court consider Martin Tello as an additional opt-in Plaintiff, who has provided an affidavit in support of the Motion for Conditional Certification and Notice to the Class.

The Defendants employed the Plaintiffs and other members of the putative class at various Charlie Brown locations throughout New York, New Jersey, and Pennsylvania to perform work as wait staff, hosts(esses), bartenders, salad makers, dishwashers, and other restaurant related tasks. Beginning in approximately 2004, and continuing through the present, Defendants have engaged in a policy and practice of failing to pay their employees minimum wages and overtime compensation, and improperly retaining gratuities from their tipped employees. These unlawful policies were directed by Defendants' upper echelon management and upon information and belief, affected all restaurants in the States of New Jersey and New York. [See Affidavit of Ruth Handler² ("Handler Aff.") annexed hereto as Exhibit A, at ¶ 17-20.]

Plaintiff Goff and Opt-in Plaintiffs Rieckehoff and Rotelli worked as servers and bartenders. [See Affidavit of Elizabeth Goff ("Goff Aff.") annexed hereto as Exhibit B, at ¶ 3; Affidavit of Christina Rieckehoff ("Rieckehoff Aff.") annexed hereto as Exhibit C, at ¶ 3; and Affidavit of Patricia Rotelli ("Rotelli Aff.") annexed hereto as Exhibit D, at ¶ 3.] They earned approximately \$3.15 to \$4.65 per hour, plus tips, for all hours that they worked. [Goff Aff. at ¶ 9; Rieckehoff Aff. at ¶ 8; Rotelli Aff. at ¶ 8; *see also* Affidavit of Bridget Pernicaro ("Pernicaro Aff.") annexed hereto as Exhibit E, at ¶ 9.] At the end of every shift, these Plaintiffs would give a predetermined percentage of their earned tips to the manager on duty. [Goff Aff. at ¶ 5; Rieckehoff Aff. at ¶ 5; Rotelli Aff. at ¶ 5; *see also* Pernicaro Aff. at ¶ 5.] In accordance with Defendants' tip pooling arrangements, the managers were supposed to distribute these tips to other employees, such as busboys and hosts(esses), and other employees who regularly

² Ruth Handler worked as a manager from approximately October 2006 through January 2010. As such, she is not a putative class member for purposes of the collective action under the FLSA.

interacted with customers. [See Goff Aff. at ¶ 5; Handler Aff. at ¶ 6; Rieckehoff Aff. at ¶ 5; Rotelli Aff. at ¶ 5; *see also* Pernicaro Aff. at ¶ 5.] However, Plaintiffs allege that instead, these managers unlawfully retained a portion of these tips for personal use and/or to pay restaurant expenses. [Goff Aff. at ¶ 5; Handler Aff. at ¶ 6; Rieckehoff Aff. at ¶ 5; Rotelli Aff. at ¶ 5; see also Affidavit of Elizabeth Greene (“Greene Aff.”) annexed hereto as Exhibit F, at ¶ 11.] Plaintiff Handler, who worked as a manager after her time as a server, testifies that she was directed by Defendants’ upper management to take a percentage of the tips collected by tipped employees and to use this money as a “slush fund” for restaurant and/or bar expenses. [Handler Aff. at ¶¶17-18.] Furthermore, managers at the corporate level, including upon information and belief Defendant Samuel Borgese, were allegedly aware that managers were unlawfully retaining portions of tipped employees’ gratuities. [See Handler Aff. at ¶ 20.] As a result of these violations, Defendants were ineligible to take a tip credit under 29 U.S.C. § 203 *et sec.* and 29 C.F.R. 531.50 *et seq* and pay Plaintiffs and the putative class less than the minimum wage. *See Morgan v. Speakeasy, LLC*, 625 F.Supp.2d 632, 652 (N.D. Ill. 2007) (“Where management employees participate in a tip pool, the pool is invalid.”) (*citing Ayres v. 127 Restaurant Corp.*, 12 F.Supp.2d 305, 308-09 (S.D.N.Y. 1998)); *Chung v. New Silver Palace Restaurant*, 246 F.Supp.2d 220, 227-29 (S.D.N.Y. 2002). Thus, Plaintiffs, Opt-in Plaintiffs, and members of the putative class were not paid minimum wages for all the hours that they worked. [See Goff Aff. at ¶¶ 9, 14-16; Handler Aff. at ¶¶ 10, 14-16; Rieckehoff Aff. at ¶¶ 8, 13-15; Rotelli Aff. at ¶¶ 8, 13-15.]

Additionally, Plaintiffs allege that Defendants required them to attend staff meetings approximately every 6 weeks, for approximately 1 to 2 hours, for which they did not receive any wages. [Goff Aff. at ¶ 11; Greene Aff. at ¶ 10; Handler Aff. at ¶ 12; Rieckehoff Aff. at ¶ 10;

Rotelli Aff. at ¶ 10; *see also* Pernicaro Aff. at ¶ 11.] As no additional tips could be earned at these staff meetings, Plaintiffs and members of the putative class were required to earn at least the statutory minimum hourly wage set forth in 29 U.S.C. § 206.

Defendants also failed to pay Plaintiffs and members of the putative class overtime compensation for all hours worked in excess of 40 hours in any given week. Plaintiff Greene, who worked as a hostess, worked 5-6 days a week, for approximately 6 to 8 hours per shift, at a rate of approximately \$8.50 to \$10.00 per hour, for all hours that she worked. [Green Aff. at ¶ 3, 6-7.] Plaintiff Greene would also sometimes work double shifts. [Greene Aff. at ¶ 6.] Plaintiff Greene alleges that her pay stubs did not accurately reflect all the hours that she worked. [Greene Aff. at ¶ 9.] If Plaintiff Greene complained to the manager, she would usually receive her missing wages at a later date, but only at her regular hourly wage, even though her hours often exceeded 40 hours in any given week. [See Greene Aff. at ¶ 9.] Plaintiff Tello, and Opt-in Plaintiff Duarte³, both worked as salad makers. [See Martin Tello Affidavit (“Tello Aff.”) annexed hereto as Exhibit 6, at ¶ 3, and Affidavit of Hector Duarte (“Duarte Aff.”) annexed hereto as Exhibit 7, at ¶ 4.] Plaintiff Tello and Opt-in Plaintiff Duarte worked 7 days a week, from approximately 9 a.m. to 11 p.m., and earned \$10.00 per hour. [Tello Aff. at ¶¶ 6-7; Duarte Aff. at ¶¶ 7-8.] Plaintiff Tello and Opt-in Plaintiff Duarte allege that despite clocking in and clocking out every day at the correct times, their paystubs did not accurately reflect all the hours over 40 that they worked. [Tello Aff. at ¶¶ 8-9; Duarte Aff. at ¶¶ 9-10.] Therefore, they allege that they were not paid overtime compensation for all the hours that they worked over 40 hours in any given week. [Tello Aff. at ¶ 12; Duarte Aff. at ¶ 13.]

³ Putative Plaintiff Hector Duarte received paychecks from Defendants that list the name Marcos Antonio Lopez. [Duarte Aff. at ¶ 3.]

Upon information and belief, Defendant Samuel Borgese is a shareholder, corporate officer, president, vice president, director, and/or owner of Defendants C.B. Holding Corp. d/b/a Charlie Brown's Steakhouse, Charlie Brown's Acquisition Corp., Charlie Brown's of Commack, LLC, and Charlie Brown's of Holtsville, LLC ("Corporate Defendants"). Also upon information and belief, Samuel Borgese made major personnel decisions for the Corporate Defendants, such as (i) the hiring and firing of employees; (ii) supervising and controlling employee work schedules or conditions of employment; (iii) determining the rate and method of payment for the Corporate Defendants' employees; and (iv) maintaining employment records. Thus, Samuel Borgese had control of the alleged activities of the Corporate Defendants that gave rise to the claims brought in this action.

On March 10, 2010, Plaintiffs filed a complaint against Defendants alleging violations of the Fair Labor Standards Act (hereinafter referred to as "FLSA"), 29 U.S.C. §§ 206, 207 and 216(b), New York Labor Law Article 19 § 663, New York Labor Law Article 6 § 190 *et seq.*, and N.Y. CODES RULES AND REGULATIONS TITLE 12 §§142-2.2, and 142-2.4, and pending Plaintiffs' motion, amended to include New Jersey Statutes Annotated §§ 34:11-56a *et seq.*, New Jersey Administrative Code 12:56-14.1 *et seq.*, and 43 Pennsylvania Statutes §§ 333.101 *et seq.* to recover unpaid minimum wages and overtime compensation, and improperly withheld wages and tips owed to Plaintiffs and all similarly situated persons who are presently or were formerly employed by Defendants. On April 5, 2010, the Defendants filed their answer.

Plaintiffs now seek an order pursuant to 29 U.S.C. § 216(b) granting conditional certification, and authorizing Plaintiffs to send notice to all prospective members of the class of Charlie Brown's employees. Specifically, Plaintiffs seek conditional certification of the following similarly situated individuals:

The Plaintiffs and all current and former employees of C.B. Holding Corp. d/b/a Charlie Brown's Steakhouse, Charlie Brown's Acquisition Corp., Charlie Brown's of Commack, LLC, Charlie Brown's of Holtsville, LLC, and Samuel Borgese, and/or any other entities affiliated with or controlled by C.B. Holding Corp. d/b/a Charlie Brown's Steakhouse, Charlie Brown's Acquisition Corp., Charlie Brown's of Commack, LLC, Charlie Brown's of Holtsville, LLC, and Samuel Borgese, who performed work as wait staff, hosts(esses), bartenders, salad makers, dishwashers, and other restaurant related tasks throughout New York, New Jersey, and Pennsylvania from 2007 through the present. Corporate officers, shareholders, directors, administrative employees, and other customarily exempt employees are not part of the defined class.

Plaintiffs FLSA, New York State, New Jersey State, and Pennsylvania State law claims unquestionably derive from a common nucleus of operative fact. Indeed, both the federal and state claims arise out of the same alleged unlawful conduct of the defendants, i.e. that Defendants failed to pay their employees, who comprise the proposed class, their rightfully owed wages.

ARGUMENT

As stated above, Plaintiffs seek an order pursuant to 29 U.S.C. § 216(b) authorizing Plaintiffs to send a Notice of Pendency of Collective Action and Consent to Joinder ("opt-in") form to all prospective members of the class who did not receive minimum wages and/or overtime compensation allegedly owed to them by Defendants. (Plaintiffs' proposed Notice of Pendency ("Notice") and Consent to Joinder Form ("Opt-in Form") are annexed hereto as Exhibits I and J). The FLSA, 29 U.S.C. § 216(b) provides in pertinent part that:

[a]n action...may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought.

This provision of the FLSA has been interpreted to establish an "opt-in" scheme in which plaintiffs must affirmatively notify the court of their intentions to be a party to the suit.

D'Anna v. M/A-COM, Inc., 903 F.Supp. 889 (D. Md. 1995). The purpose of this provision allows for an early and orderly prosecution of this action by advising all potential class members of the pendency of this action, and the basic nature of the class claims. Furthermore, it insures against inconsistent results through competing lawsuits by other aggrieved workers who may be contemplating legal action. This reasoning has repeatedly been applied in FLSA collective actions similar to the instant action. In *Patton v. Thomson* 364 F.Supp.2d 263 (E.D.N.Y. 2005) Magistrate Judge Orenstein directed Plaintiffs to publish a notice of pendency early in the litigation reasoning that:

...it is appropriate to do so at this stage, rather than awaiting the completion of discovery.... [D]oing so now is "a means of facilitating the Act's broad remedial purpose and promoting efficient case management" *Hoffmann [v. Sbarro]*, 982 F.Supp. 249, 262 (S.D.N.Y. 1997)] (citing *Braunstein [v. Eastern Photographic Lab.]*, 600 F.2d 335, 336 (2d Cir. 1978)]. In particular, early notice will help to preserve and effectuate the rights of potential plaintiffs whose claims might otherwise become time-barred during the discovery phase of the case.

Id. at 268. Additionally, there is no prejudice to the Defendants as the proposed Notice and Opt-in Form annexed herewith as Exhibits 8 and 9 do not provide anything more than a court-approved general description of the action, and an explanation of opt-in procedures. *Id.*

It has been held that district courts have the discretion to facilitate notice to potential members of the class under the FLSA. *Hoffmann-LaRoche, Inc. v. Sperling*, 493 U.S. 165, 110 S.Ct. 482, 107 L.Ed.2d 480 (1989); *Braunstein*, 600 F.2d at 336. In so holding, the Second Circuit declared that giving courts the power to facilitate notice "comports with the broad remedial purpose of the Act, which should be given a liberal construction, as well as with the interest of the courts in avoiding multiplicity of suits." *Braunstein v. Eastern Photographic Lab.*, 600 F.2d 335, 336 (2d Cir. 1978).

Court supervised notice to potential class members generally occurs during the first stage of a two-part procedure where courts determine whether the potential plaintiffs in a class action are “similarly situated” in accordance with 29 U.S.C. § 216(b). *Iglesias-Mendoza v. La Belle Farm, Inc.*, 239 F.R.D. 363 (S.D.N.Y. 2007). The first stage, also referred to as the notice stage, takes place prior to discovery, requiring the court to make its determination on whether to certify the class based on limited evidence then available. *Pendlebury v. Starbucks Coffee Company*, 2005 WL 84500 at *3 (S.D. Fla. Jan. 3, 2005); *Epps v. Oak Street Mortgage LLC*, 2006 WL 1460273 at *3 (M.D. Fla. May 22, 2006). The Court in *Iglesias-Mendoza* explained:

At the first stage, the court will look at the pleadings and affidavits. If the plaintiff satisfies “the minimal burden of showing that the similarly situated requirement is met,” the court certifies the class as a collective action. *Scholtisek v. Eldre Corp.*, 229 F.R.D. 381, 387 (W.D.N.Y. 2005). At this juncture – also termed the “notice stage” – the court applies “a fairly lenient standard” and (when it does so) typically grants “conditional certification.” *Torres v. Gristede’s Operating Corp.*, 2006 WL 2819730, *7 (S.D.N.Y. Sept. 28, 2006) (quoting *Moss v. Crawford & Co.*, 201 F.R.D. 398, 409 (W.D.Pa. 2000)). Potential class members are then notified and provided with an opportunity to opt in to the action. *Scholtisek*, 229 F.R.D. at 387.

Id. at 367.

Because the first stage is made on a “fairly lenient standard”, as the available evidence at that time is extremely confined and restricted, courts have held that, at this preliminary stage, “plaintiffs can satisfy the ‘similarly situated’ requirement by making ‘a modest factual showing sufficient to demonstrate that they and potential plaintiffs together were victims of a common policy or plan that violated the law.’” *Iglesias-Mendoza*, 239 F.R.D. at 367-68 (citing *Realite v. Ark Restaurants Corp.*, 7 F.Supp.2d 303, 306 (S.D.N.Y. 1998)). This is a more liberal standard than the required showing under Fed. R. Civ. Pro. 23 because “no showing of numerosity, typicality, commonality and representativeness need be made.” *Iglesias-Mendoza*, 239 F.R.D. at

368 (citing *Young v. Cooper Cameron Corp.*, 229 F.R.D. 50, 54 (S.D.N.Y. 2005)).

Although courts need not conclusively determine whether a class of “similarly situated” plaintiffs exists at the notice stage, “there must be, at a minimum, evidence of such a potential class sufficiently developed at this time to allow court-facilitated class notice.” *D’Anna*, 903 F.Supp. at 893. In making this determination, “courts appear to require nothing more than substantial allegations that the putative class members were together the victims of a single decision, policy or plan infected by discrimination.” *Id.* See also *Severtson v. Phillips Beverage Co.*, 137 F.R.D. 264, 267 (D. Minn. 1991) (plaintiffs required to establish “at least a colorable basis for claim that similarly situated plaintiffs exists”); *Guzman v. VLM, Inc.*, 2007 WL 2994278, at *3 (E.D.N.Y. Oct. 11, 2007) (Gleeson, J.); *Gjurovich v. Emmanuel's Marketplace, Inc.*, 282 F.Supp.2d 91, 95-97 (S.D.N.Y.2003).

The Plaintiffs in the instant matter have clearly met this minimal standard. Plaintiffs Elizabeth Goff, Cassandra Greene, and Martin Tello, testifying for themselves and on behalf of the putative class, and Opt-in Plaintiffs Hector Duarte, Christina Rieckehoff, and Patricia Rotelli, have specifically alleged that during the course of their employment, the Defendants employed them and other members of the putative class, at various locations throughout New York, New Jersey, and Pennsylvania to perform work as wait staff, hosts(esses), bartenders, salad makers, dishwashers, and other restaurant related tasks. [Goff Aff. at ¶¶ 2-3; Greene Aff. at ¶¶ 2-3; Tello Aff. at ¶¶ 2-3; Duarte Aff. at ¶¶ 2-4; Handler Aff. at ¶¶ 2-4; Rieckehoff Aff. at ¶¶ 2-3; Rotelli Aff. at ¶¶ 2-3.]

Plaintiff Goff, and Opt-in Plaintiffs Rieckehoff and Rotelli, allege that they earned between \$3.15 and \$4.65 per hour and that Defendants personally retained portions of their tips for personal use or as a “slush fund” for restaurant expenses. [Goff Aff. at ¶¶ 5, 9; Rieckehoff

Aff. at ¶¶ 5, 8; Rotelli Aff. at ¶¶ 5, 8; *see also* Handler Aff. at ¶¶ 6, 10.] Defendants were therefore ineligible to take a tip credit pursuant to 29 U.S.C. § 203 *et seq* and 29 C.F.R. 531.50 *et seq* and pay Plaintiffs and the putative class less than the minimum wage for all hours that they worked. Plaintiffs also allege that they had to attend staff meetings once every 6 weeks for which they did not receive any wages. [Goff Aff. at ¶¶ 11, 12; Rieckehoff Aff. at ¶¶ 10-11; Rotelli Aff. at ¶¶ 10-11; *see also* Handler Aff. at ¶ 12; Pernicaro Aff. at ¶ 11.]

Plaintiffs Greene and Tello and Opt-in Plaintiff Duarte also allege that they often worked more than 40 hours in any given week and did not always receive overtime compensation for all hours over 40 that they worked. [Green Aff. at ¶¶ 6-7, 9; Tello Aff. at ¶¶ 6-7, 12; Duarte Aff. at ¶¶ 7-8, 13.] Plaintiffs and Putative Plaintiffs further allege that their paystubs did not accurately reflect all the hours that they worked. [Green Aff. at ¶ 9; Tello Aff. at ¶¶ 8-9; Duarte Aff. at ¶¶ 9-10; *see also* Pernicaro Aff. at ¶ 15.]

Named Plaintiffs Goff, Greene, and Tello, and Opt-in Plaintiffs Duarte, Rieckehoff, and Rotelli, represent that they personally worked with no less than between 35 to 80 other “similarly situated” employees who performed the same or similar tasks. [See Goff Aff. at ¶¶ 6-7; Greene Aff. at ¶¶ 4-5; Tello Aff. at ¶ 5; Duarte Aff. at ¶ 6; Rieckehoff Aff. at ¶¶ 6-7; Rotelli Aff. at ¶¶ 6-7; *see also* Handler Aff. at ¶¶ 7-8; Pernicaro Aff. at ¶ 6.] The Named Plaintiffs and Opt-in Plaintiffs also represent that other workers were similarly underpaid based on their personal observations and discussions they had with many of these individuals. [Goff Aff. at ¶¶ 15-16; Greene Aff. at ¶¶ 11-12; Tello Aff. at ¶¶ 13-15; Duarte Aff. at ¶¶ 14-16; Rieckehoff Aff. at ¶¶ 14-15; Rotelli Aff. at ¶¶ 14-15; *see also* Handler Aff. at ¶¶ 15-16; Pernicaro Aff. at ¶¶ 16-17.] Furthermore, Handler, as a manager, was directed by upper management to unlawfully retain the tips of employees for restaurant use, indicating widespread wage and hour violations affecting a

large number of putative class members. [See Handler Aff. at ¶¶ 17-20.]

Based on the foregoing and the testimony and evidence contained in the Named Plaintiffs and Putative Plaintiffs respective affidavits, it is clear that Plaintiffs have sufficiently established “a colorable basis” for their claim that Defendants engaged in a policy and practice of failing to pay their employees the minimum wage for all hours worked and overtime compensation for all hours worked over 40 in any given week, as well as unlawfully retaining the gratuities of tipped employees. See *Severtson*, 137 F.R.D. at 267; *Nawrocki et al v. Crimson Const. Corp. et al*, 2009 WL 2356438 (E.D.N.Y. July 30, 2009). Plaintiffs “have easily made the modest showing that is required of them at this preliminary stage: they were subjected to certain wage and hour practices at the defendants’ workplace and to the best of their knowledge, and on the basis of their observations, their experience was shared by members of the proposed class.” *Iglesias-Mendoza*, 239 F.R.D. at 368.

Accordingly, Plaintiffs respectfully request this Court grant Plaintiffs’ motion and authorize that notice be given to potential class members to opt-in to this lawsuit in accordance with 29 U.S.C. § 216(b), along with such further relief as this Court deems necessary.

Dated: June 18, 2010
New York, New York


Lloyd Ambinder
Kara Belofsky
VIRGINIA & AMBINDER, LLP
111 Broadway, Suite 1403
New York, New York 10006
Tel: (212) 943-9080
Fax: (212) 943-9082

amd

Jeffrey K Brown
Leeds, Morelli & Brown, P.C.
One Old Country Road, Suite 347
Carle Place, NY 11514
Tel: (516) 873-9550
Fax: (516) 747-5024

Attorneys for Plaintiffs and Putative Class