

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.:

Plaintiff,

v.

Defendant.

**NOTICE OF COURT PRACTICE IN FAIR LABOR STANDARDS ACT CASES AND
REFERRAL TO MAGISTRATE JUDGE FOR SETTLEMENT CONFERENCE**

THIS CAUSE is before the Court upon a *sua sponte* examination of the record. The Court notes that this is a Fair Labor Standards Act case in which the Plaintiff seeks unpaid wages. In order to assist the Court in the management of the case, and in an effort to foster its early and cost effective resolution, the parties are hereby Ordered that:

1. *Each* Plaintiff shall file a statement of claim setting forth the amount of alleged unpaid wages, the calculation of such wages, and the nature of the wages (*e.g.* overtime or regular) **within 15 days** from the date below. **Each Plaintiff shall promptly serve a copy of this notice, their FLSA statement, and copies of all documents supporting his/her claim (*e.g.* time slips, pay stubs) on Defendants' counsel** when counsel for the Defendants first appears in the case or at the time of filing of the statement if Defendants' counsel has already appeared in the case.

2. **Within 25 days of the date of this Order**, each Plaintiff shall answer the Court's Interrogatories (attached to this Order) under oath or penalty of perjury and file the answers with the Court entitled "Notice of Filing Answers to Court's Interrogatories." Each Plaintiff shall serve a copy of these answers on Defendants' counsel when counsel for the Defendants first appears in the case or at the time of filing of the answers if Defendants' counsel has already appeared in the case.

3. Defendants shall file responses to Plaintiff's statement and provide Plaintiff **with**

copies of all documents supporting their defenses within 15 days of service of Plaintiff's statement.

4. **Referral to Magistrate for Settlement Conference.** Pursuant to Rule 1 of the Magistrate Rules of the Southern District of Florida, the parties shall conduct a Settlement Conference before Magistrate Judge Alicia M. Otazo-Reyes **within 15 days after the date that Defendants' Responses are due.** Plaintiff's counsel must confer with defense counsel and contact Magistrate Judge Otazo-Reyes' Chambers **on or before the date that Defendants' Responses are due** to schedule a date for the Settlement Conference. Magistrate Judge Otazo-Reyes will issue an Order Scheduling Settlement Conference outlining the time and requirements for the Settlement Conference. The Settlement Conference date may not be extended without prior approval from Magistrate Judge Otazo-Reyes.

5. **Consent to Magistrate for Disposition of Case.** Pursuant to 28 U.S.C. § 636(c) and the Magistrate Rules of the Local Rules of the Southern District of Florida, the parties may consent to the conduct of all further proceedings, including a jury or non-jury trial and the entry of a final judgment, in this case by the United States Magistrate Judge (consent form attached). The parties shall confer regarding the consent to magistrate **within 10 days after the Defendant's Response is due.** In the event that the parties consent to the conduct of all further proceedings by a Magistrate Judge, the action shall be referred to Magistrate Judge Otazo-Reyes for disposition and the above-referenced settlement conference shall be held before either Magistrate Judge William C. Turnoff or Magistrate Judge Peter R. Palermo, as designated by the Court.

6. Except as provided under Local Rule 16.2.E for public-sector entities, the appearance of counsel and each party or representatives of each party with full authority to enter into a full and complete compromise and settlement is mandatory. Appearance shall be in person; telephonic appearance is prohibited, unless approved by Magistrate Judge Otazo-Reyes. If insurance is involved, an adjustor with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

7. All discussions, representations and statements made at the mediation conference shall be confidential and privileged.

8. **Settlement.** If the case is settled, counsel must inform the Court **within 3 days** by calling Chambers. Upon notice of settlement, Magistrate Judge Otazo-Reyes shall prepare a report and recommendation as to whether any settlement is a “fair and reasonable resolution of a bona fide dispute” over FLSA issues. *See Lynn’s Food Stores, Inc. v. United States*, 679 F. 2d 1350, 1354-55 (11th Cir. 1982).

9. **Non-compliance with Order and Rules of Court.** Non-compliance with any provision of this Order, the Federal Rules of Civil Procedure, and/or the Local Rules of Court, may subject the offending party to **sanctions or dismissal**. It is the duty of all counsel to take all actions necessary to comply with this Order to ensure an expeditious resolution of this matter.

DONE and ORDERED in Chambers, Miami, Florida, on _____

Paul C. Huck
United States District Judge

Copies furnished to:
All Counsel of Record
Magistrate Judge Alicia M. Otazo-Reyes

COURT’S INTERROGATORIES TO PLAINTIFF

1. During what period of time were you employed by the Defendant?
2. Who was your immediate supervisor?
3. Did you have a regularly scheduled work period? If so, specify.
4. What was your title or position? Briefly describe your job duties.
5. What was your regular rate of pay?
6. What is the nature of your claim (check all that apply)?

Off the clock work (i.e., Defendant failed to record, or prohibited you from recording, all of your working time)

Misclassification (i.e., Defendant mistakenly classified you as exempt from overtime)

Miscalculation (i.e., Defendant failed to correctly calculate your compensation)

Other (Please describe): _____

7. Provide an accounting of your claim, including:

- (a) dates
- (b) regular hours worked
- (c) over-time hours worked
- (d) pay received versus pay claimed
- (e) total amount claimed

8. If you have brought this case as a collective action:

- (a) Describe the class of employees you seek to include in this action.
- (b) Has an opt-in notice been filed for every potential opt-in Plaintiff who has identified him/herself as a person who wishes to join this action?

9. Please specify all attorney’s fees and costs incurred to date. With respect to attorney’s

fees, please provide the hourly rate(s) sought and the number of hours expended by each person who has billed time to this case.

10. When did you (or your attorney) first complain to your employer about alleged violations of the FLSA?
11. Was this complaint written or oral? (If a written complaint, please attach a copy.)
12. What was your employer's response? (If a written response, please attach a copy.)
Do not respond to this question to the extent, if any, that such response might violate evidentiary rules regarding disclosure of the nature or terms of a settlement discussion. In such a situation, it shall suffice to state that discussions occurred and the matter was not resolved to your satisfaction.

Name _____ Signature

State of Florida
County of _____

Before me, the undersigned authority, on this day, personally appeared _____, who being first duly sworn, deposes and says that he/she has read the foregoing Answers to Interrogatories, knows the contents of same, and to the best of his/her knowledge and belief, the same are true and correct.

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 2013.

Notary Public

**FORM CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE
JUDGE**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. _____**

_____,

Plaintiff,

vs.

_____,

Defendant.

_____ /

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, United States Code, Section 636(c), the parties to the above-captioned civil matter hereby waive their right to proceed before a District Judge of this Court and consent to have a Magistrate Judge conduct any and all further proceedings in the case (including the trial) and order the entry of judgment.

Attorney Name (Bar Number)
Attorney E-mail Address
Firm Name
Street Address
City, State, Zip Code
Telephone: (xxx)xxx-xxxx
Facsimile: (xxx)xxx-xxxx
Attorney for Plaintiff [Party Name(s)]

Attorney Name (Bar Number)
Attorney E-mail Address
Firm Name
Street Address
City, State, Zip Code
Telephone: (xxx)xxx-xxxx
Facsimile: (xxx)xxx-xxxx
Attorney for Defendant [Party Name(s)]