IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

Ashley BROOKS et al. **PLAINTIFFS**

v. **No. 5:16-CV-31-KS-MTP**

ILLUSIONS, INC. et al. **DEFENDANTS**

MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION TO CONDITIONALLY CERTIFY
AND SEND RELEVANT NOTICES TO THE PROPOSED FLSA CLASS

Introduction

Plaintiff Rachel LeBlanc and her co-workers worked as "dancers" at the Defendant Illusions, Inc., d/b/a Illusions Gentlemen's Club in Woodville, Mississippi, under the management of Defendant Thomas Walsh. Defendants misclassified LeBlanc and all the other dancers as "independent contractors" and charged them money for the privilege of working there. There is Fifth Circuit precedent directly on point, demonstrating that this scheme was unlawful. *Reich v. Circle C. Investments, Inc.*, 998 F. 2d 324 (5th Cir. 1993); *see generally Fair Labor Standards Act*, 29 U.S.C. §§ 206, 207, 216(b). The present motion seeks conditional certification solely for the purpose of an initial, Court-supervised notice to dancers who are potential "opt-in" Plaintiffs in this action.

The inquiry under the FLSA at this stage is "fairly lenient," requiring only "substantial allegations" of some significant common issues. *Mooney v. Aramco Servs. Co.*, 54 F.3d 1207, 1214, n.8 (5th Cir. 1995); *see Harris v. Hinds County*, 3:12-cv-542, (S.D.

Miss. February 4, 2014) *available at* https://scholar.google.com/scholar_case?case=8936344778663610955. *See generally* 2 Kearns, Kaufmann & McClelland, *The Fair Labor Standards Act* § 17.III.A, 17-19 et seq. (3d Ed. 2015). There is good reason for such leniency. In contrast to Rule 23, FLSA conditional certification has no impact on the rights of others: "The sole consequence of conditional certification is the sending of court-approved written notice to employees." *Genesis Healthcare Corp. v. Symczyk*, 133 S. Ct. 1523, 1530 (2013). And the "wisdom and necessity" of supervised notice to the class "early" is well established. *Hoffman-La Roche Inc. v. Sperling*, 493 U.S. 165, 170-171 (1989).

The standard is met here. Specifically, all dancers were subject to the same contract and employment terms, resulting in the same violations of federal law. Thus, as explained herein, the motion should be granted.

Facts

The present motion concerns the class of persons described in the Complaint ¶ 14 as "all persons who worked as 'dancers' or 'entertainers' or 'strippers' at Illusions, Inc. at any time between three years prior to the filing of this Complaint and the entry of judgment in this case." Plaintiff LeBlanc worked as a dancer at Illusions for at least some part of the last three years. Exhibit 1, ¶ 71, (Walsh *pro se* Answer).

The dancers all sign the same contract; under this contract, "dancers pay a fee for use of the facilities." Exhibit 1, ¶ 72; Exhibit 2 (Contract). Dancers are not paid any wages by the club, but make all of their money exclusively from patron "tips" and fees.

Exhibit 1, ¶ 72-73. The club requires dancers to be in attendance, and fines them for not coming to work. Exhibit 1 ¶ 76, 85-86. The club sets "house fees" which range up to $115 on weekends, depending on the time the dancer begins working; the earlier a dancer arrives, the less the fee. Exhibit 1 ¶ 85. The club mandates "tips" to be paid by dancers to the DJ. Exhibit 1¶ 82. The club mandates lap dances at a certain rate, and mandates "2-for-1" prices on Tuesdays. Exhibit 1 ¶ 80. There is a "dress code" for dancers, wherein all costumes must include high heels, and must be approved by Defendants. Exhibit 1 ¶ 92. The club has uniform "guidelines" for routines by dancers. Exhibit 1 ¶ 93. Defendants have instructed dancers – and told patrons – that the dancer must get completely nude whenever at least $20 in tips have been placed on the stage. Exhibit 1 ¶ 95.

Defendants operate a single club at a single location. Defendants own and control the land and everything on it. Exhibit 1 ¶ 97. Collectively, this represents a very significant investment by Defendants. Exhibit 1 ¶ 98.

The club will employ dancers who have had no prior experience. Exhibit 1 ¶ 104. When a new dancer without any experience is hired by the Defendants, no training is provided and the dancer is able to begin working right away. Exhibit 1 ¶ 106.

Ten or more dancers have worked for over a year at a stretch for the Defendants. Exhibit 1 ¶ 109. Most dancers work only for the Defendants. Exhibit 1 ¶ 112.

Discussion

The FLSA sets minimum wages and maximum hours of work. 29 U.S.C. §§ 206, 207. Covered employers must pay covered employees according to these rules, including paying "at a rate not less than one and one-half times the regular rate at which he is employed" for any work "longer than forty hours" in a "workweek." *Id.* If unlawfully denied such pay, Section 16(b) of the FLSA permits an employee to bring suit against an employer "for and in behalf of himself . . . and other employees similarly situated." 29 U.S.C. § 216(b).

"A suit brought on behalf of other employees is known as a 'collective action.'" *Genesis*, 133 S. Ct. 1523, 1527 (2013). "Collective actions typically proceed in two stages." *Sandoz v. Cingular Wireless LLC*, 553 F.3d 913, n.5 (5th Cir. 2008). These are "(1) the notice stage, and (2) the 'opt-in,' 'merits,' or decertification stage." *Harris v. Hinds County*, 3:12-cv-542, (S.D. Miss. February 4, 2014) *available at* https://scholar.google.com/scholar_case?case=8936344778663610955.

The present motion is a request to begin the "notice stage." At the notice stage, a "fairly lenient standard" is applied, requiring only substantial allegations that putative class members share some similarities of situation. *Id.* (quoting *Mooney*, *infra*).

I. The Legal Standard for Conditional Certification

The essential function of this motion is to obtain Court supervision of the notices to be sent to potential "opt-in" Plaintiffs. As the Supreme Court as observed, there is

"propriety, if not the necessity, for court intervention in the notice process" which is to be both "accurate and *timely*" such that "it lies within the discretion of a district court to begin its involvement *early*." *Hoffman-La Roche Inc. v. Sperling*, 493 U.S. 165, 170-171 (1989) (emphasis added). "Court authorization of notice serves the legitimate goal of avoiding a multiplicity of duplicative suits and setting cutoff dates to expedite disposition of the action." *Id.* at 172.

Such "notice stage" or "conditional" certification is subject to a far less searching inquiry than certification under Rule 23. This is because "Plaintiffs who desire to join in a 'collective action' must 'opt in' to the case and be bound by a judgment, unlike plaintiffs in a Rule 23 class action who must essentially 'opt out.'" *Harris v. Hinds County*, 3:12-cv-542, (S.D. Miss. February 4, 2014). Cases under the FLSA are virtually unique in this regard.[1] Thus, as the Supreme Court recently explained: "Under the FLSA, by contrast, 'conditional certification' does not produce a class with an independent legal status, or join additional parties to the action. *The sole consequence of conditional certification is the sending of court-approved written notice to employees*, who in turn become parties to a collective action only by filing written consent with the court." *Genesis Healthcare Corp. v. Symczyk*, 133 S. Ct. 1523, 1530 (2013) (citations omitted, emphasis added).

1 The Age Discrimination in Employment Act, discussed in *Hoffman-La Roche v. Sperling*, 493 U.S. 165, 169, 70 (1989), is one of the only other statutes which incorporates the unique procedures and standards of the Section 16(b) collective action.

The FLSA "notice stage" is, unlike Rule 23 certification, an unqualified good for the absent class members, all parties, and judicial economy. It only gives notice, it does not truly create any class, join any party, or extinguish or absorb the rights of any potential plaintiff. It simply facilitates the orderly joinder of persons with shared claims. This avoids both Defendants and Plaintiffs wasting resources in an unnecessary multiplicity of suits, without harming the procedural rights of anyone.

In this way, "Rule 23 actions are fundamentally different from collective actions under the FLSA." *Id.* at 1529. The "opt in" procedure is "a fundamental, irreconcilable difference between the class action described by [Rule 23] and that provided for by [Section 216(b)]," *LaChapelle v. Owens-Ill., Inc.*, 513 F.2d 286, 288 (5th Cir. 1975), such that "[t]he FLSA procedure, in effect, constitutes a congressionally developed alternative to the [Rule 23] procedures." *Donovan v. Univ. of Tex. at El Paso*, 643 F.2d 1201, 1206 (5th Cir. 1981). As such, "the rules and policies underlying 'opt out' class actions might not apply when construing the FLSA, as the statute treats the representative plaintiff and opt in plaintiffs differently." *Sandoz v. Cingular Wireless LLC*, 553 F.3d 913, 916-17 (5th Cir. 2008).[2] Indeed, the standard for conditional certification "is considerably less stringent than the proof required pursuant to [Rule 20] for joinder or [Rule 23] for class

2 It must be noted that other portions of the analysis in *Sandoz* are no longer valid. The analysis of "relation back" of FLSA certification in *Sandoz* was, at the very least, called into serious doubt by *Genesis*, *supra*. In addition, the Supreme Court has explicitly overruled and rejected the line of Fifth Circuit caselaw – including *Sandoz* – which found that a *rejected* Rule 68 offer of judgment is capable of "mooting" a lawsuit. *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663 (2016).

certification." *Ryan v. Staff Care Inc.*, 497 F. Supp. 2D 820, 824 (N.D. Tex. 2007).

A. *Lusardi*'s "Fairly Lenient Standard" and the Appropriate Factors Considered

The test, therefore, is a "fairly lenient standard" requiring only "substantial allegations" suggesting that proposed class members may turn out to be "similarly situated." *Mooney v. Aramco Servs. Co.*, 54 F.3d 1207, 1214, n.8 (5th Cir. 1995) *overruled on other grounds by Desert Palace, Inc. v. Costa*, 539 U.S. 90 (2003).

This standard arises out of the landmark case of *Lusardi v. Xerox Corp.*, 118 F.R.D. 351 (D.N.J. 1987). The *Lusardi* method is recognized as "the favored approach by courts in the Fifth Circuit." *Harris v. Hinds County*, 3:12-cv-542, (S.D. Miss. February 4, 2014) *available at* https://scholar.google.com/scholar_case?case=8936344778663610955 (quotations and citations omitted). Thus, although the Fifth Circuit itself has technically reserved judgment on *Lusardi* to date, the method carries the implicit support of the Supreme Court and the Fifth Circuit, and has been formally embraced by the overwhelming majority of Circuits and District Courts to address it. Decisions from these courts are strong persuasive authority for the proper application of the *Lusardi* standard.

At this initial "notice stage" under *Lusardi*, the court "makes a decision—usually based only on the pleadings and any affidavits which have been submitted—whether notice of the action should be given to potential class members." *Mooney v. Aramco Svcs. Co.*, 54 F.3d 1207, 1214 (5th Cir. 1995).

> Because the court has minimal evidence, this determination is made using a fairly lenient standard, and typically results in 'conditional certification' of a representative class. If the district court 'conditionally certifies' the class, putative class members are given notice and the opportunity to 'opt-in.' The action proceeds as a representative action throughout discovery.

Id. at 1214. Indeed, even affidavits may not be necessary, and the bare allegations of the Complaint itself may be sufficient to justify conditional certification. In *Neagly v. Atascosa County EMS*, for example, the district court, *sua sponte*, conditionally certified the plaintiff's FLSA case as a collective action on the basis of *solely* the allegations in the Complaint. No. Civ.A. SA04CA0893XR, 2005 WL 354085, at *3 (W.D.Tex. Jan. 7, 2005). The Complaint, while "at the outer bounds of what should be presented to the Court when initiating a collective action," sufficiently stated a claim against the defendant as to all similarly-situated employees. *Id.* The Fifth Circuit in *Sandoz* noted this decision with approval, strongly suggesting that it was within the discretion of district courts. 553 F.3d at n.4.

The analysis does not depend on considering any finite list of elements, but on considering open-ended *ad hoc* factors.

> *Lusardi* and its progeny are remarkable in that they do not set out a definition of "similarly situated," but rather they define the requirement by virtue of the factors considered in the "similarly situated" analysis. In other words, this line of cases, by its nature, does not give a recognizable form to an [FLSA or] ADEA representative class, but lends itself to ad hoc analysis on a case-by-case basis.

Id. at 1213. The objective is to reach a general sense of whether the other employees at issue appear to have enough in common with the representative plaintiffs to justify

notifying the employees of the lawsuit.

To that end, the following factors are frequently and appropriately considered: (1) the similarity of the relevant wage and hour practices or policies; (2) similarity of job duties; and (3) geographical and temporal similarities. We will now discuss each of these matters in turn. The required showing has been amply made in this case.

1. Similarity of Wage & Hour Practices or Policies

The first factor is the most important, and in many cases, it is enough to carry the burden of conditional certification by itself: "At the notice stage, '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.'" *Mooney*, 54 F.3d at n.8 (quoting *Sperling v. Hoffman-La Roche, Inc.*, 118 F.R.D. At 407). Though perhaps not strictly necessary, *see Behnken v. Luminant Min. Co., LLC*, 997 F. Supp. 2D 511, 518 n.4 (N.D. Tex. 2014), where there are substantial allegations that the complained of policy was common to the class, this is generally sufficient to justify notice to that class. The court should authorize certification if it finds "some factual nexus which binds the named plaintiffs and the potential class members together as victims of a particularly alleged policy or practice." *Salinas-Rodriguez v. Alpha Svcs.*, L.L.C., No. 3:05-CV-44-WHB-AGN, 2005 WL 3557178, at *3 (S.D. Miss. Dec. 27, 2005) (citations omitted).

Here, every dancer worked the same job subject to the same (non)payment rules.

Each signed the same contract. Each was paid the same $0 per hour wage. Each paid the club according to the same schedule of fees, fines, tips and payouts. Essentially everything complained of in the Complaint regarding the dancers is common with the class. This reason alone should be adequate to justify conditional class certification.

2. Similarity of Job Duties

Although the positions compared "need not be identical" for conditional certification, *Mateos v. Select Energy Servs., LLC*, 977 F. Supp. 2D 640, 645 (W.D. Tex. 2013), here the evidence is that they ***are*** identical. The dancers all performed the same kind of work in the club, working on the stage, on the floor, and in the lap-dance room. Each was subject to the same work rules, dress code, and other regulations. Each had, in short, precisely the same terms and conditions of employment in every relevant respect. They were all supervised by the same person. They were all subject to the same policies of every description. There is no variation in job duties that could possibly be sufficient to undermine the class at this stage.

3. Geographic and Temporal Similarities

A far flung class, such as one encompassing workers throughout the nation, may sometimes be difficult to administer. *See Ryan v. Staff Care, Inc.*, 497 F. Supp. 2d 820, 824-25 (N.D. Tex. 2007). In addition, defendants sometimes argue that policies have changed within the 2-3 year statute of limitations, such that notice would be inappropriate to portions of the class which are not temporally represented by the named plaintiff. *See*

Walker v. Honghua, 870 F.Supp.2d 462, 472-73 (S.D. Tex. 2012) (temporally limiting class based on change in employer policies on a certain date).

Here the evidence is quite clear that everyone was working in the same location, and that the same policies were in effect throughout the relevant time period. Although Defendant Walsh asserts that he has newly come into ownership of the business, he was the day-to-day manager throughout the time in question, and he has not identified any relevant policies or payment practices which have changed since he came into ownership. As such, there is no reason to think that there is any geographical or temporal diversity which would undermine certification.

B. Merits, Defenses, and Outside Interest are Not Considered at this Stage.

Employers opposing motions for conditional certification have sometimes raised arguments going either (1) to the merits or credibility of the claim, or (2) to individual defenses, or (3) to claiming that no other employee will be interested in the suit. Such arguments have been justly rejected by the weight of well-reasoned authority as having no bearing whatsoever at the preliminary "notice stage" of the FLSA action. Nonetheless, even if this court should choose to join the minority view, and give some consideration to such arguments at this stage, the available evidence is quite clear that conditional certification remains appropriate. Indeed, it appears likely that Defendants will have no meaningful defense on the merits, no individual defenses, and no colorable grounds for denying the interest of others in joining the suit. We will address these

points in turn.

1. Merits and credibility of Plaintiffs case are not relevant at this stage

As the leading treatise on this area of law states: "Courts generally do not evaluate the merits of the claims, or make credibility determinations at the conditional certification stage." 2 Kearns, Kaufman & McClelland, at 17-25; *see also Beall v. Tyler Technologies, Inc.*, 2:08-CV-422 (E.D. Tex. June 23, 2009) *available at* https://scholar.google.com/scholar_case?case=12913367523114006471 (quotation marks and citations omitted). As this Court has explained, in *Salinas-Rodriguez v. Alpha Services, LLC*, it is not appropriate to engage in any weighing of the evidence at this stage: so long as there are credible allegations on the merits, that is sufficient to send notice to the class. No. 3:05-CV-44, 2005 WL 3557178 (S.D. Miss. Dec. 27, 2005).

In the present case, the admissions of the Defendants appear likely adequate for success on the merits. There appears to be little ground for genuinely disputing the facts in this case. There does not appear to be any colorable grounds for maintaining that plaintiffs are independent contractors under the "economic realities" test, since they are utterly dependent on the Defendants for every aspect of this work, nor does there appear to be any basis for disputing non-compliance with the requirement to pay wages and overtime.

Indeed, both issues have already been considered and resolved in the substantially identical case of *Reich v. Circle C. Investments, Inc.*, 998 F. 2d 324 (5th Cir.

1993). In that case, the Fifth Circuit held that dancers in a nude club were employees because (1) they were subject to fines for missing work, *id.* at 327, (2) the club regulated the time when dancers show up to work, *id.* (3) though dancers may spend up to $600 per month on costumes, this is "relatively minor" compared to the investment in the premises and fixtures of a nightclub, *id.* at 328 (4) the club controlled the location, hours and aesthetics of the facility and other "determinants of customer volume," *id.* (5) the dancers "do not need long training or highly developed skills," *id.* Indeed, in *Reich* an employment relationship was found despite the lack of any permanence in the relationship. *Id.* Here the evidence is far stronger of a permanent and largely exclusive employment relationship. Exhibit 1 ¶ 109, 112.

Ultimately, summary judgment in favor of the Plaintiff may be appropriate in this case. But whether this proves to be so in the final analysis or not, it is evident that "substantial allegations" are made by Plaintiffs on the merits as to the class, and that is the outer limit of what can be fairly expected at this stage.

2. Individualized defenses do not undermine conditional certification.

Defendants may also raise defenses they claim are "individualized," such as exemption or independent contractor status, to try to defeat conditional certification. These arguments are simply not considered at the "notice stage," because discovery is necessary to assess just how "individualized" these arguments will prove to be. *See Akins v. Worley Catastrophe Response, LLC*, 12-CV-2401 (E.D. La., April 8, 2013) (citations

omitted) *available at* https://scholar.google.com/scholar_case?case=16044978960429656724; *Smith v. Manhattan Mgmt. Co. LLC*, 14-CV-2623, (E.D. La, July 6, 2015) *available at* https://scholar.google.com/scholar_case?case=506587961959611213.

Indeed, very often the classification issues raised by defendants wind up providing *further support* for conditional certification. For example, in *Walker v. Honghua*, 870 F.Supp.2d 462, 470-72 (S.D. Tex. 2012), the court noted that this "argument borders on specious — members of the proposed classes all hold the same job title, have the same job responsibilities, work at the same locations . . ." (quotations and citations omitted). The court held that "the economic factors test is likely not appropriate for determination at the first stage of FLSA class certification." *Id.*

Even if such an argument were to be considered in this case, it would not defeat certification. In the present case, as previously noted, there does not appear to be any colorable grounds for supposing that the proposed class includes independent contractors or exempt employees.

Nonetheless, to the extent any such argument may be tendered, it will depend on the facts about the class as a whole. The whole class shares the same job duties, the same relationship to the employer and control of the work, the same skill and initiative, the same relative investment, and the same opportunity for profit and loss. These issues are not "individualized" in this case.

3. Interest of potential class members in joining the action

From time to time defendants argue that there is no reason for notice because there is no evidence anyone else wants to join. This, they claim, is a necessary inquiry to avoid any "fishing expedition." A small minority of courts have accepted this view. *See Dybach v. State of Florida Department of Corrections*, 942 F.2d 1562, 1567-68 (11th Cir. 1991).

But this Court, in a well reasoned decision in *Harris v. Hinds County*, has considered and rejected this view – and rightly so. As this Court stated: "The best way to determine whether a party is interested in joining a lawsuit is to send her notice and allow her to opt in. Indeed, requiring that multiple potential class members affirm their intention to join the suit before notice is issued would require plaintiffs or their counsel to solicit opt-in plaintiffs without the benefit of court-approved notice — which defeats the purpose of this stage of the litigation." 3:12-cv-542, (S.D. Miss. February 4, 2014) available at https://scholar.google.com/scholar_case?case=8936344778663610955. Nor is this court alone in so holding: numerous courts in this circuit and others have rejected the minority approach of the Eleventh Circuit.[3]

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3 *Heckler v. DK Funding, LLC*, 502 F. Supp. 2d 777, 780 (N.D. Ill. 2007); *Delgado v. Ortho-McNeil, Inc.*, 2007 WL 2847238, at *2 (C.D. Cal. Aug. 7, 2007) (declining to apply interest requirement because the notice stage is designed to provide notice to potential opt-in plaintiffs who are unaware of the case); *Lima v. Int'l Catastrophe Solutions, Inc.*, 493 F. Supp. 2d 793, 799 (E.D. La. 2007) (finding that affidavits from additional employees were not required at the early stage because the court could "revisit the question later after some discovery"); *Prater v. Commerce Equities Mgmt. Co., Inc.*, CIV.A. H-07-2349, 2007 WL 4146714, at *8 (S.D. Tex. Nov. 19, 2007) (finding that issuance of notice was warranted where additional plaintiffs joined initial legal action and the allegation that there were at least twenty potential plaintiffs showed "that at least a few similarly situated individuals seek to join the lawsuit") (citation omitted); *Dreyer v. Baker Hughes Oilfield Operations, Inc.*, No. H-08-1212, 2008 WL 5204149, at *3 (S.D. Tex. Dec. 11, 2008).

In this context, it is significant to note that, "unlike under Rule 23, there is no numerosity requirement in an FLSA class action lawsuit." *Villarreal v. St. Luke's Episcopal Hosp.*, 751 F. Supp. 2d 902, 915-16 (S.D. Tex 2010); *accord Page v. Nova Healthcare Management, LLP*, Civ. No. H-12-2093, (S.D. Tex. September 6, 2013) (adopting magistrate's recommended decision of August 14, 2013). It simply does not matter how many people want to join the suit: all that matters is that the people who would potentially join share something essentially in common. If there are people who could potentially share in that, they should be given notice.

Nonetheless, even in those courts that consider this factor, it isn't a rigorous one. As noted by the court in *Simmons* – which considered this factor – only the demonstrated interest of "a few" people is necessary, and the form of evidence need not be unduly formal: "[a]ffidavits per se are not required and a named plaintiff may submit some other form of evidence that the additional aggrieved persons exist and want to join the suit." *Simmons v. T-Mobile USA, Inc.*, No. H-06-1820, 2007 WL 210008, at *9 (S.D. Tex. Jan. 24, 2007). And having even just a handful of interested potential plaintiffs is enough to benefit from the efficiencies of a collective action. *Mateos v. Select Energy Servs., LLC*, 977 F. Supp. 2D 640, 644-45 (W.D. Tex. 2013).

In the present case, in addition to the three named plaintiffs, an additional plaintiff has since provided authorization to file suit on her behalf, expressing a desire to join the class. Exhibit 3 (opt-ins of Tamoira Vital and others). Regardless of whether

this factor is considered, it has been met here.

II. Contents and Distribution of the Notice

The sample notice and opt-in form attached to this motion as Exhibit 4 should be approved. The notice meets the requirements generally imposed by the courts. *See generally* Kearns *et al.*, *supra*; *Hoffman-La Roche, supra*. It fairly and neutrally describes its purpose, the nature of the suit, relief sought, legal effect of not joining, contact information, and that employer retaliation is prohibited. *See* listing in Kearns, *et al.*, *supra*.

To accomplish notice to the prospective class, the Court should enter an Order requiring Defendants to disclose the names, addresses, email addresses, social media handles/identifiers, phone numbers, and the last four digits of the social security number[4] of all members of the prospective class. Plaintiffs request that this information be provided in a usable electronic form within ten (10) days of the entry of the court's Order in order to reduce delays in sending out notices.

CONCLUSION

Dancers all worked pursuant to the same policies, doing the same job duties, at the same time, in the same place, and with the same pay and terms. For this reason, notice to the class is appropriate under the "fairly lenient standard" applicable here.

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4 Phone numbers may be used to obtain updated mailing addresses where necessary. The last four digits of the SSN are also necessary for "skip tracing" individuals with bad addresses and phone numbers. These partial SSNs will not be disclosed, filed with the court, or used for any purpose other than skip tracing.

Respectfully submitted,

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Certificate of Service

The foregoing was filed by ECF, which caused electronic service to counsel for all parties of record at the addresses below:

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Joel Dillard