

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:22-cv-187-BO

JOSE CRUZ MARTINEZ-MORALES, *et al.*,)
on behalf of themselves and other)
similarly situated persons,)
)
Plaintiffs,)
)
v.)
)
VALENTINO LOPEZ, JR. *aka and/or d/b/a*)
VALENTINO LOPEZ AND VALENTINO LOPEZ)
GOMEZ, *et al.*,)
)
Defendants.)
_____)

PLAINTIFFS' MOTION FOR CONDITIONAL CERTIFICATION OF A COLLECTIVE ACTION, FOR DISCLOSURE OF CONTACT INFORMATION FOR POTENTIAL OPT-IN PLAINTIFFS, AND TO DISTRIBUTE COURT-APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)

Pursuant to 29 U.S.C. § 216(b), Plaintiffs Jose Cruz Martinez-Morales, Margarito de la Cruz-Nava, Cuauhtemoc Florencio-Gutierrez, Marisol Florencio-Gutierrez, Agustin Florencio-Sanchez, Jeidy Flores-Arriaga, Rosa Irma Gomez-Hernandez, Ivan Oswaldo Meza-Garcia, Feliciano Navarrete-Flores, Pedro Procopio-Diaz, Jose Romero-Patricio, Benin Betuel Vargas-Espiritu, and Sergio Villalva-Gatica ("Moving Plaintiffs") hereby move this Court for an Order:

1. Conditionally certifying this action as a FLSA collective action pursuant to 29 U.S.C. § 216(b) for:

H-2A workers employed by Valentino Lopez, Jr., at any time in 2020, who file a Consent to Sue pursuant to 29 U.S.C. 216(b) and who performed agricultural or related work for Defendants in or around Sampson County, North Carolina, and who were required by Defendants to pay unlawful recruitment fees, were not fully reimbursed for their inbound travel costs in the first paycheck they received, and/or were paid less than the minimum hourly wage of \$7.25 per hour required by the FLSA for any H-2A worker's weekly wage(s).

2. Approving the distribution of the attached Notice and Consent to Join forms by Moving Plaintiffs, within two weeks from the date on which Defendants provide contact information for the persons whom the Court conditionally certifies as members of the collective action under 29 U.S.C. § 216(b), by U.S. mail, and approving distribution by text and/or WhatsApp message, social media including but not limited to Facebook, posting on a website, notification and provision of the Notice and form(s) to the Mexican Consulate, and radio in Mexico. See Exhibits D, E;

3. Ordering Defendants to provide to Plaintiffs within two weeks after entry of the Court's Order the full names, date(s) of employment, employee ID, passport number and copy of passport biographical page, U.S. and Mexico addresses, home, cell, and WhatsApp phone numbers (U.S. and Mexico), location of work performed for the Defendants, and date of birth of all putative collective action members;

4. Ordering Defendants to post and maintain the

Notice, attached as Exhibit D, at all worksites and employer-provided housing for H-2A farmworkers under the ownership or control of any of the Defendants until resolution of this action or December 31, 2023, whichever is earlier, and ordering the Defendants to provide the Notice to current employees with the employees' paychecks within two weeks after entry of the Court's Order, and to subsequent H-2A employees with those employees' first 2023 paychecks; and,

5. For such other relief as the Court deems just.

The grounds for this Motion are set forth in Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Conditional Certification of a Collective Action, For Disclosure of Contact Information for Potential Opt-In Plaintiffs, and to Distribute Court-Approved Notice Pursuant to 29 U.S.C. § 216(b), which Memorandum accompanies this Motion.

This the 12th day of January, 2023.

Respectfully Submitted,

/s/ Michael Boyd
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which system will send a notice of electronic filing to all counsel of record in the above-captioned matter, including the following counsel(s) of record for Defendants:

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This the 12th day of January, 2023.

/s/ Michael Boyd
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