

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

VICTOR ZAVALA; EUNICE GOMEZ;
ANTONIO FLORES; OCTAVIO DENISTO;
HIPOLITO PALACIOS; CARLOS ALBERTO
TELLO; MAXIMILIANO MENDEZ; ARTURO
ZAVALA; FILIPE CONDADO; LUIS
GUTIERREZ; DANIEL ANTONIO CRUZ;
PETR ZEDNEK; TERESA JAROS; JIRI
PFAUSER; HANA PFAUSEROVA; PAVEL
KUNC; and MARTIN MACAK, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

WAL-MART STORES, INC.,

Defendant.

Civil Action No. 03-5309 (JAG)

ORDER

GREENAWAY, JR., U.S.D.J.

Plaintiffs are undocumented immigrants who have provided janitorial services at Defendant's retail stores nationwide. In Count 4 of the complaint, they allege that Defendant violated the minimum wage and overtime pay provisions of the Fair Labor Standards Act ("FLSA" or "the Act").¹

The instant matter comes before this Court on the motion of Plaintiffs for facilitated notice and limited discovery under the FLSA, pursuant to 29 U.S.C. § 216(b). (Docket No. 13.)

¹Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant Wal-mart moved to dismiss Count 4 of the amended complaint, which seeks relief under the FLSA. This motion, with respect to Count 4, shall be denied, and thus, does not moot Plaintiffs' motion for facilitated notice, which has been brought pursuant to the FLSA.

This Court has reviewed the parties' submissions and has heard oral argument on this matter.

Upon good cause appearing,

IT IS on this 29th day of DECEMBER 2004,

ORDERED that Plaintiffs' motion for facilitated notice is GRANTED; and

IT IS FURTHER ORDERED THAT:

1. Plaintiffs' request for conditional certification of this matter as a collective action, pursuant to 29 U.S.C. § 216(b), is granted;
2. Plaintiffs are authorized to notify potential plaintiffs through a court-approved notice, upon approval of such notice by this Court;
3. The parties shall submit to the Court, within twenty-one (21) days from the entry of this Order, a revised "Notice" containing amendments to the proposed Notice (as attached to Plaintiffs' brief in support of the instant motion) as agreed upon by the parties, for approval by this Court;
4. The revised "Notice" also:
 - a. Shall exclude any references to Sam's Club stores; and
 - b. Shall provide potential plaintiffs with six (6) months from the date on which the revised "Notice" is approved by this Court to opt into this action; and

IT IS FURTHER ORDERED THAT Plaintiffs' motion for limited discovery is GRANTED, subject to the following:

1. Defendant shall produce the names, addresses, and nationalities of all Wal-mart former and current contract janitors since January 2000, and all relevant Wal-mart maintenance

contracts and contact information for former and current contractors who supplied janitorial labor to Wal-mart stores since January 2000;

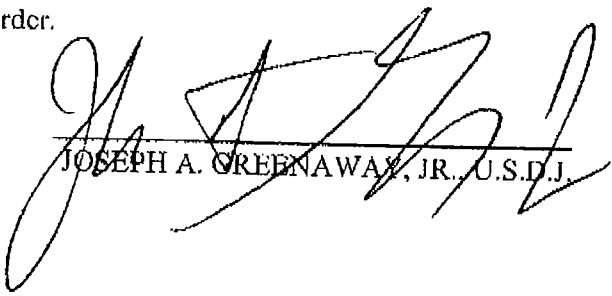
2. This limited discovery shall not extend to janitors, contractors or contracts related exclusively to Sam's Club stores;

3. The parties shall submit a proposed scheduling order, governing the limited discovery in this matter, to this Court within twenty-one (21) days of the entry of this Order; and

IT IS FURTHER ORDERED THAT Plaintiffs' request to enjoin Defendant from interviewing potential plaintiffs in the absence of Plaintiffs' counsel is denied; and

IT IS FURTHER ORDERED THAT the parties shall appear before the Court for a conference on any outstanding issues concerning the form and content of the revised Notice and limited discovery, on **Wednesday, February 16, 2005, at 4:00 p.m.**; and

IT IS FINALLY ORDERED THAT counsel for the parties be served with a copy of this Order within seven (7) days of the entry of this Order.



JOSEPH A. GREENAWAY, JR., U.S.D.J.