IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

JOHN ELMY, individually and on behalf of all other similarly situated persons, **Plaintiffs,** **v.** **WESTERN EXPRESS, INC., NEW HORIZONS LEASING, INC., and JOHN DOES 1-5,** **Defendants.**	**CIVIL NO. 3:17-cv-01199** **JUDGE CAMPBELL** **MAGISTRATE FRENSLEY**

PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION TO STAY PENDING THE DECISION OF THE SUPREME COURT IN *NEW PRIME, INC. V. OLIVEIRA* (*DKT* 61)

Plaintiffs oppose Defendants' motion to stay this case pending the Supreme Court review of the *New Prime* case. While proceeding with the case would not irreparably harm the Defendants, a stay would greatly prejudice Plaintiffs because the FLSA statute of limitations is running on the claims of potential opt-in plaintiffs; because of the inevitable loss of evidence that would occur during the lengthy delay Defendants propose; and because a stay would allow Defendants to continue to require putative class members to suffer work conditions that Plaintiffs allege are violations of the Federal Forced Labor Statute. Finally a stay offers little in the way of judicial economy as the case will continue regardless of the outcome of *New Prime.* A blanket stay of proceedings is inappropriate under such circumstances.[1] In the event the Court grants

[1] While Plaintiffs oppose any stay, at a minimum this Court should limit any stay to the consideration of Plaintiffs' Federal Arbitration Act (FAA) §1 arguments made in opposition to the pending motion to compel arbitration, Doc 36, as that is the only issue being addressed in *New Prime* and allow the litigation to proceed in all other respects. See, *Trump v. Int'l Refugee Assistance Project*, 137 S. Ct. 2080, 2087, 198 L. Ed. 2d 643 (2017) ("This Court may, in its discretion, tailor a stay so that it operates with respect to only "some portion of the proceeding.") citations omitted.

Defendants' motion, the Court should, at a minimum, toll FLSA limitations for potential opt-in Plaintiffs.

This case arises out Defendants' attempts to evade the minimum wage requirements of the FLSA by misclassifying the Plaintiffs and purported class members as independent operators. By claiming the Plaintiffs are independent operators, Defendants seek to avoid their legal obligations under federal and state laws. They do so by requiring Plaintiffs to enter into an Equipment Lease ("Lease") with Defendant New Horizons Leasing, Inc., and a Contract Hauling Agreement ("Contract") with Defendant Western Express, Inc. that effectively create a "company store" scheme. The Lease requires the Plaintiffs to abide by the Contract or be in default of the Lease, which triggers accelerated lease payments, loss of use of the truck, and other severe financial hardships. The Contract puts Plaintiffs at the mercy of Western Express, forcing them to accept work assignments for which they are paid less than the minimum wage. If Plaintiffs complain, Western Express is able to terminate the Contract triggering the financial penalties in the Lease.[2] This scheme is rampant in the trucking industry, relegating what was once a solidly middle-class profession to one that often pays poverty-level wages and treats truck drivers like "indentured servants."[3]

[2] The details of the Contract and Lease Agreement are set out in more detail in Plaintiffs' Opposition to Defendants' Motion to Compel Arbitration, Doc. XXX, pp 2-8.

[3] *See* Brett Murphy, USA Today, *Rigged. Forced into debt. Worked past exhaustion. Left with nothing.* (June 16, 2017), available at: https://www.usatoday.com/pages/interactives/news/rigged-forced-into-debt-worked-past-exhaustion-left-with-nothing/ (attached as Exhibit F); Steve Viscelli, The Atlantic, *Truck Stop: How One of America's Steadiest Jobs Turned Into One of Its Most Grueling* (May 10, 2016), available at: https://www.theatlantic.com/business/archive/2016/05/truck-stop/481926/ (attached as Exhibit F); Lydia DePillis, Washington Post, *Trucking used to be a ticket to the middle class. Now it's just another low-wage job.* (April 28, 2014), available at (https://www.washingtonpost.com/news/wonk/wp/2014/04/28/trucking-used-to-be-a-ticket-to-the-middle-class-now-its-just-another-low-wage-job/?utm_term=.8b22dd6fa8a4 (attached as Exhibit F).

Plaintiffs brought claims on behalf of themselves and a class of drivers who were subject to Defendants' illegal scheme. The claims under the Fair Labor Standards Act are brought pursuant to the Act's collective provision, 29 U.S.C. §216(b), and the state and other federal law class claims are brought pursuant to Fed. R. Civ. P. 23. See Complaint at §§ 18-23.

Defendants' scheme uses an arbitration agreement to try to prevent Plaintiffs and similarly situated employees from bringing claims to recover their minimum wages. The terms of the arbitration agreement deny them access to federal or state court, impose substantial costs to bring claims in arbitration, shorten the limitation period for claims, invalidate fee shifting provisions in federal and state laws, and prevent employees from acting in concert to protect their rights.[4]

Plaintiffs argued in opposition to Defendants' Motion to Compel Arbitration that they and class members cannot be compelled to arbitrate by the Federal Arbitration Act because they are Defendants' employees and exempt from the FAA pursuant to the § 1 exemption for employees engaged in interstate commerce. 9 U.S.C. § 1. See Doc. 36, Section II.D. Plaintiffs also argued that they cannot be compelled to arbitration because the arbitration agreement's delegation clause—i.e., the clause delegating the question of arbitrability to an arbitrator—is unconscionable. Plaintiffs specifically argued that the Court must decide the issue of whether the arbitration agreement's delegation clause is valid before it can compel Plaintiffs to arbitrate. *Id.* at § IV.A. Neither of these issues will be reviewed by the Supreme Court in the *New Prime* appeal. See Doc. 62-2, Certiorari Petition, Questions Presented at page 2. Plaintiffs also argued that the Court, not the arbitrator, must determine whether a Section 1 exemption applies even in the face of a valid delegation clause and that Defendants' contract of employment would trigger

[4] The details of the Arbitration Agreement are set out in more detail in Plaintiffs' Opposition to Defendants' Motion to Compel Arbitration, Doc. 36 at § III.

the Section 1 exemption regardless of whether Plaintiffs and class members are employees or not. But these are alternative arguments. While they can be independent grounds for denying Defendants' motion to compel arbitration, they cannot be independent grounds for compelling Plaintiffs to arbitrate. That is, even if these two issues were found in favor of compelling arbitration, the Court would still have to address the Plaintiffs' other arguments to determine if arbitration is required.

ARGUMENT

A stay is not appropriate in this case. While courts have discretion in fashioning a stay, "it is also clear that a court must tread carefully in granting a stay of proceedings, since a party has a right to a determination of its rights and liabilities without undue delay." *Ohio Envtl. Council v. U.S. Dist. Court, S. Dist. of Ohio, E. Div*., 565 F.2d 393, 396 (6th Cir. 1977); see also *McKinley v. Grill*, No. 17-2408-JPM-TMP, 2017 WL 7052145, at *1 (W.D. Tenn. Aug. 11, 2017) ("Only in rare circumstances will a litigant in one case be compelled to stand aside while a litigant in another settles the rule of law that will define the rights of both.") quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936). As the Defendants point out, a stay of all proceedings pending some other event should issue only if Defendants can show irreparable harm that outweighs any harm to the Plaintiffs and only if the stay is necessary to avoid piecemeal, duplicative litigation and potentially conflicting results. See, *Cobble v. 20/20 Commc'ns, Inc.*, No. 2:17-CV-53-TAV-MCLC, 2017 WL 4544598, at *2 (E.D. Tenn. Oct. 11, 2017).

Defendants have not shown the parties will suffer irreparable harm in proceeding with the litigation. The parties will have to litigate the substantive issues in the case regardless of where the claims are heard. Granting a stay is highly likely to add years onto the litigation given the time needed for the appeal process and the subsequent litigation of Plaintiffs' independent

grounds for denying the motion to compel. That delay greatly prejudices Plaintiffs not just from the loss of evidence and witnesses but from the running of the statute of limitations on FLSA claims. Moreover, Defendants will be given free rein to continue scheming unwitting participants into working for less than minimum wage. A stay offers little in the way of judicial economy that would weigh against the substantial prejudice it causes. Regardless of how the Supreme Court rules in *New Prime*, this Court will have to address Plaintiffs' independent grounds for denying the Motion to Compel Arbitration.

I. Defendants Have Not Shown that Denying a Stay Would Result in Irreparable Harm

Defendants' only claim to irreparable harm is that the parties would have to continue the litigation. But Defendants' motion to compel arbitration has been fully briefed. Allowing the case to move forward, at least until the point the Court has ruled on that motion (either in its entirety or at least on the aspects of the motion that will not be decided by *New Prime*) will not harm the Defendants in any way at all. There is simply nothing more for the parties to do with respect to that motion, except perhaps appear for argument if the Court requests it, and that hardly qualifies as irreparable harm. If the Court finds that the delegation clause in the agreement is unconscionable and/or it agrees with any of the reasons raised by Plaintiffs in opposition to arbitration (other than the FAA §1 issued being addressed in *New Prime*), the case will not be referred to arbitration regardless of the outcome of *New Prime* and precious time will not have been lost. Even if the Court rejects Plaintiffs' non-§ 1 arguments against arbitration, such that the FAA § 1 issues become dispositive, those issues will have been addressed and the § 1 issue will be ripe for decision as soon as *New Prime* is decided.

Even apart from the pending motion, there is simply no reason to delay moving forward with this litigation pending the *New Prime* decision. The issues in the *New Prime* appeal address where the claims should be tried, not the substance of the issues. Any litigation work performed

in this case before dispositive motions and trial will be easily transferable to arbitration even if the Court were, ultimately, to send the case there. For example, discovery on the claims would be applicable in this Court or in arbitration. See *McKinley*, 2017 WL 7052145, at *2 (having to conduct discovery is not irreparable harm because "that discovery will be helpful regardless of whether the case proceeds in this Court or in arbitration.") To the extent that Defendants believe that extensive discovery in this forum would be prejudicial, the parties can develop a discovery plan that provides for representative discovery and avoids duplicative or unnecessary work. Any Court rulings short of summary judgment or a trial verdict would be law of the case and would not have to be re-litigated in arbitration. In the unlikely event that this case is ready to proceed to summary judgment or trial before the Supreme Court's decision in *New Prime*, the Court can address the advisability of a stay at that juncture. But the parties will have been spared more than a year of delay. Proceeding with a litigation under these circumstances does not inflict harm on Defendants, much less irreparable harm.[5]

II. A Stay Would Irreparably Harm the Plaintiffs

A stay in this case would add more than year, if not several years, of delay to Plaintiffs' claims for unpaid minimum wages. The Supreme Court process itself is likely to delay the case more than a year. For example, the Supreme Court granted certiorari in a case involving similar issues of the applicability of arbitration agreements in the employment context on January 13, 2017. At this point, fourteen months later, no decision has been issued. *N.L.R.B. v. Murphy Oil USA, Inc.*, 137 S. Ct. 809, 196 L. Ed. 2d 595 (2017). If a stay issues, the Supreme Court's

[5] Defendants may claim on reply that they will be irreparably harmed by the case proceeding as a FLSA collective action, but this is fallacious too. A FLSA collective action requires class members to affirmatively join the case and does not include passive class members. Accordingly, any FLSA class members who do join may be compelled to bring their claims in arbitration if necessary. Defendants suffer no irreparable harm from opt-ins joining this action until a final decision on the appropriate forum is decided.

process may only be the beginning of the delay. Depending on how the Supreme Court rules, this Court may have to then address Plaintiffs' independent grounds for denying the motion to compel arbitration. And if the case goes to an arbitrator to determine whether the arbitration agreement is enforceable pursuant to the delegation clause, that process may take six months or more on its own before the Parties can begin to litigate the substance of the claims.

During the inevitable delay that would result from a stay, Plaintiffs and putative class members would be prejudiced by the spoilage of evidence. It is undeniable that relevant evidence is likely to be lost or destroyed, and potential witnesses may become inaccessible or otherwise unavailable, and knowledge may be lost or forgotten. In many cases, a stay may not unduly prejudice Plaintiffs' access to evidence or witnesses, as a litigation hold would be in effect to preserve such evidence. In the present case, however, because putative class members have not yet been noticed, potential opt-in Plaintiffs are not yet aware of the pendency of this action and may not be aware of their own rights. As such, putative class members do not yet know and are not yet obligated to preserve evidence that could be relevant to the claims or defenses in this action, rendering evidence in this action particularly vulnerable to spoilage should the Court grant a stay. The risk of lost evidence is particularly keen in this case. As long-haul truckers working for less than the minimum wage, many of the witnesses and the putative class members are likely to be transient and contact information for them will quickly become stale if a stay issues. Long-haul truck drivers do not typically interact with other drivers during their employment. As a result, Plaintiffs' counsel is hindered in identifying witnesses and class members until after the stay lifts and discovery begins. See, *McKinley*, 2017 WL 7052145, at *2 (a stay of a FLSA collective action injures plaintiffs because "delayed notice to putative class members would likely result in some of their contact information becoming outdated, especially

if, as Plaintiff alleges, many move around a lot and are highly transitory.") That is a particularly unfair result since a stay would in no way limit Defendants' ability to contact witnesses. The contact information of putative class members and witnesses is in the Defendants' possession now and can be used by Defendants during a stay. But Plaintiffs have none of that information and can do little in the way of investigation and preservation of evidence in the event a stay is granted.

A stay is also prejudicial to Plaintiffs in this case because, unlike in a Rule 23 class, the FLSA statute of limitations runs on individual class members' claims until they file a consent to sue. *Roslies-Perez v. Superior Forestry Serv., Inc.*, 652 F.Supp.2d 887, 898 (M.D. Tenn. 2009). To avoid this result, courts routinely order notice issued to the putative class members early in the litigation, informing them of their rights and ability to join the case. As this Court recently explained:

> The statute of limitations is not tolled for any individual class member until that individual has filed a written consent to join form with the court. 29 C.F.R. § 790.21(b)(2). The information contained in a notice form is therefore important to allow a prospective plaintiff to understand his or her interests, and a collective action hinges on 'employees receiving accurate and timely notice concerning [its] pendency [...], so that they can make informed decisions about whether to participate.

Roberts v. Corr. Corp. of Am., No. 3:14-CV-2009, 2015 WL 3905088, at *15 (M.D. Tenn. June 25, 2015), citing *Hoffman-La Roche Inc. v. Sperling*, 493 U.S. 165, 170 (1989). A stay will result in a delay in issuing notice to the potential opt-ins and as a result, many will lose claims to the statute of limitations. By the time the stay lifts, potential class members will have lost more than a year of back minimum wages, which would be all or a substantial part of the claims for many potential class members.

Further, a stay will allow Defendants to continue to subject current drivers to employment practices that allegedly violate the federal Forced Labor statute and the Tennessee Involuntary Labor Servitude statute. Dkt. 1 at § 8. As Plaintiffs have outlined in their Complaint, Plaintiffs seek injunctive relief to prevent Defendants' alleged violations of the Forced Labor statute by using unlawful provisions, misrepresentations, and fraud to prevent Plaintiffs from leaving their employment while paying them less than minimum wage. Id. at §§ 91-98. Indeed, in many workweeks, Plaintiffs end the workweek owing Defendants money after having worked 70 or more hours for Defendants. The public policy behind these forced labor statutes compels the Court to reach the legality of these practices to ensure that violations do not continue.

Defendants' claim that Plaintiffs can avoid prejudice by bringing their claims in arbitration is illustrative of their overall plan. Defendants designed an arbitration agreement that denies Plaintiffs and the putative class many of their statutory rights: it imposes costs on individual Plaintiffs far beyond those applicable in court; it purports to shorten the limitation period for claims from three to one year, to invalidate statutory fee shifting provisions, and to prevent the application of the FLSA's collective action provision and the class provision of FRCP 23. The option of bringing claims in arbitration under such circumstances can hardly be considered as a way to avoid prejudice.

III. Judicial Economy Does Not Demand a Stay

While considerations of judicial economy are relevant in deciding whether a stay is appropriate, judicial economy by itself "cannot justify an indefinite, and potentially lengthy, stay." *FedEx Corp. v. United States*, No. 08-02423, 2012 WL 12931967, at *4 (W.D. Tenn. Mar. 13, 2012) quoting *Yong v. INS*, 208 F.3d 1116, 1120–21 (9th Cir.2000) accord *Patent Compliance Group, Inc. v. Hunter Fan Co.*, No. 10-2442, 2010 WL 3503818, at *2 (W.D. Tenn.

Sept. 1, 2010) (interest in judicial economy alone does not justify a stay). The Defendants' claim that continued litigation risks grave judicial diseconomies is exaggerated and speculative.

The Supreme Court decision in the *New Prime* case may not have any effect on this case. Plaintiffs' theory of liability is that Plaintiffs and the putative class members are in fact employees and not independent contractors. Plaintiffs have presented substantial evidence that Plaintiffs are employees and courts around the country have found employee status in similar circumstances. See Doc. 36 at 2-8. If this Court agrees with Plaintiffs, the *New Prime* issue of whether the FAA Section 1 exemption applies to independent contractor agreements is irrelevant. If this Court decides against the Plaintiffs, that decision will apply in the case whether it is litigated in federal court or in arbitration. In any case, the Court will have to address Plaintiffs' argument no matter how the *New Prime* appeal is decided. There is no risk of duplicative litigation or conflicting results with respect to the issue because it is not before the Supreme Court.

Plaintiffs have also argued that this Court must decide the validity of the delegation clause in Defendants' Agreement before it can compel arbitration on the issue of arbitrability of the claims. Doc. 36 at § IV.A. The delegation clause is invalid as unconscionable because it forces a Plaintiff seeking unpaid minimum wages to pay thousands of dollars just to find out where his or her claims will be heard. That is a cost that minimum wage workers cannot bear. The unconscionability is compounded by Defendants' position that Plaintiffs cannot proceed collectively in arbitration and therefore each Plaintiff must individually bear that cost in his or her own individual arbitration. The issue on review in *New Prime* is whether the Court or an arbitrator determines Section 1 exemptions pursuant to a valid delegation clause. See Cert Petition, Dkt 62-2 at 2. The review does not address the issue in this case of whether the

delegation clause itself is valid.[6] If the Court decides against the Plaintiffs on this issue it will have to address the issue raised in *New Prime*, but its decision may well be consistent with the Supreme Court's decision. If not, the Court may compel arbitration and the parties will benefit from the progress they made while awaiting the Supreme Court's decision.

Even if the decision in *New Prime* altered the Court's decision regarding the motion to compel arbitration, Defendants' claims that the efforts expended in this litigation would then be duplicated cannot survive scrutiny. The legal arguments, factual evidence, investigation, and discovery – whether in arbitration or litigation – will be relatively equivalent, and efforts taken in litigation could clearly be utilized in arbitration without requiring duplicating such efforts. *McKinley*, 2017 WL 7052145, at *2.

IV. If the Court Does Issue a Stay, It Should Take Steps to Minimize Potential Hardship to the Plaintiffs

If the Court does take the extraordinary step of issuing a stay in this case, it should exercise its discretion to minimize potential hardship to Plaintiffs. Such steps should include, at the very least, tolling the statute of limitations on the FLSA class claims until Plaintiffs' request for conditional certification and notice to the class is addressed. The Sixth Circuit has recognized that the FLSA statute of limitations may be equitably tolled and has set forth a five factor test for granting tolling. *EEOC v. Kentucky State Police Dept.* 80 F.3d 1086, 1094-5 (6th Cir. 1996). Those factors include: (1) whether the plaintiffs lack actual notice of their rights and obligations; (2) whether they lacked constructive notice; (3) the diligence with which they pursued their rights; (4) whether the defendant would be prejudiced if the statute were tolled; and

[6] Unable to contest the Court's responsibility to determine if the delegation clause is valid before enforcing it, Defendants make a spurious claim that Plaintiffs did not dispute the validity of the arbitration delegation clause. That claim is clearly unfounded. The Plaintiffs dedicated a section of their response to the motion to compel entitled "The Delegation Clause Is Unconscionable." Dkt 36 Section IV.A. That section explains that the delegation clause itself is unconscionable because it because it presents a financial bar to the Plaintiffs bringing their claims.

(5) the reasonableness of the plaintiffs remaining ignorant of their rights. *Id.* at 1094. It is not necessary to satisfy all five factors before tolling is granted. *See, e.g. Dixon v. Gonzales,* 481 F.3d 324, 331 (6th Cir. 2007) (affirming tolling order where only the 3rd and 4th factors were satisfied). Nevertheless, all five factors support tolling limitations in this case if a stay is entered. The truck drivers that Plaintiffs seek to join in this FLSA action have never received actual or constructive notice of this action or of their potential rights to join in it. The named Plaintiffs have been diligently pursuing their rights which is why they are opposing the motion for a stay. Defendants would not be prejudiced by tolling -- after all, it is they who seek to delay this litigation and prevent FLSA notice to similarly situated workers from issuing promptly. Finally, it is entirely reasonable that similarly situated truck drivers remain ignorant of their rights. The contract that is at the heart of this litigation labels those drivers "independent contractors," outside the protections of the FLSA. It is hardly unreasonable for drivers to rely upon that label even though it is legally incorrect. Thus, in the event the Court grants Defendants' requested stay, the FLSA statute of limitations should be tolled for all similarly situated truck drivers. *See White v. Publix Super Markets, Inc.,* 3:14cv1189, 2015 WL 6510395 *6 (M.D. Tenn. Oct. 28, 2015) (granting tolling as a result of defendants' request to delay ruling on FLSA certification motion); *Roslies-Perez v. Superior Forstry Service, Inc.,* 652 F.Supp.2d 887, 888 (M.D. Tenn. 2009) (granting tolling in FLSA action); *Penley v. NPC Int'l., Inc.,* 206 F.Supp.3d 1341, 1348-1351 (W.D. Tenn. 2016) (applying factors and granting tolling in FLSA case); *Struck v. PNC Bank NA*, 931 F.Supp.2d 842, 846-849 (same).

However, merely tolling limitations will do nothing to ameliorate the loss of accurate and up to date contact information for the class members. A stay that delays issuance of notice will inevitably result in contact information becoming stale and that will inevitably mean that

evidence will be lost and that potential collective action members will not learn of their right to join in this action. The court can avoid that harm during the pendency of the stay either by ordering notice to the potential collective action members informing them of the existence of this case, of their potential right to join it after the stay is lifted, and informing them of the importance of keeping Plaintiffs' counsel informed of their current contact information so that any notice issued after the stay is lifted can reach them. See, e.g., *Evans v. Caregivers, Inc.*, No. 3:17-cv-0402, 2017 WL 2212977, at *7 (M.D. Tenn. May 19, 2017) (authorizing notice to similarly situated employees); *McClain v. First Acceptance Corp.*, 2017 Wage & Hour Cas. 2d (BNA) 267637 (M.D. Tenn. 2017) (same). Although FLSA notice is typically issued after the collective action is conditionally certified, if the Court stays the litigation, including Plaintiffs' pending Motion for Conditional Certification and Notice, Doc. 63, it has the authority to take steps to alleviate any hardship the stay may impose. Alternatively, the Court may order Defendants to produce a list of putative FLSA class members so the Plaintiffs can preserve evidence necessary to prosecute their claims, whether in this Court or in arbitration. See, e.g., *Burdine v. Covidien, Inc.*, No. 1:10-CV-194, 2011 WL 613247, at *2 (E.D. Tenn. Feb. 11, 2011)(granting discovery of contact information of putative FLSA class members prior to conditional certification); *Miklos v. Golman-Hayden Companies, Inc.*, No. CIV.A.2:99-CV-1279, 2000 WL 1617969, at *1 (S.D. Ohio Oct. 24, 2000) (explaining that in *Hoffman-LaRoche, Inc. v. Sperling*, 493 U.S. 165 (1989), the Supreme Court authorized district courts to order "the defendant employer to produce to the named plaintiffs the names and addresses of all similarly situated employees" prior to conditional certification); see also, *Helmert v. Butterball, LLC*, No. 4:08CV00342JLH, 2008 WL 5272959, at *1 (E.D. Ark. Dec. 15, 2008) (explaining that FRCP

26 authorizes discovery of the names and addresses of putative FLSA class members prior to conditional certification.)

CONCLUSION

Plaintiffs respectfully request that the Court deny Defendants' motion to stay this case pending the decision of the Supreme Court in *New Prime, Inc. v. Oliveira*. While proceeding with the litigation will not result in irreparable harm to the parties, issuing the stay greatly prejudices Plaintiffs and achieves little in the way of judicial economy. If the Court takes the extraordinary step of staying the case, it should at the very least toll the statute of limitations on FLSA claims. It should also order notice to issue to potential class members informing them of the existence of this case, of their potential right to join it after the stay is lifted, of the importance of preserving evidence, and informing them of the importance of keeping Plaintiffs' counsel updated as to their contact information in case the claims are certified for collective treatment or in the alternative order Defendants to identify the putative FLSA class members so the Plaintiffs can preserve evidence necessary to prosecute their claims.

March 16, 2018

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2018, a copy of the foregoing document was electronically filed with the Court and electronically served on the date reflected in the ECF system upon:

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