



Office of the District Court Executive

Edward A. Friedland
District Court Executive

Colleen McMahon
Chief Judge

FOR IMMEDIATE RELEASE

September 28, 2016

CONTACT

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**SOUTHERN DISTRICT OF NEW YORK ADR PROGRAM ANNOUNCES PILOT PROGRAMS
FOR FLSA AND § 1983 EFFECTIVE OCTOBER 3, 2016**

The United States District Court for the Southern District of New York announces two pilot programs effective October 3, 2016. Both programs are designed to promote the just, speedy, and inexpensive resolution of civil cases by providing litigants with automatic and expeditious disclosure of critical documents and requiring them to participate in mediation unless ordered otherwise.

1. Cases filed under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., assigned to District Judges Abrams, Briccetti, Carter, Daniels, Ramos, Seibel, and Woods will, once the defendant appears, be ordered directly to mediation with limited pre-mediation disclosures.
2. Cases against police officers filed in White Plains under 42 U.S.C. § 1983 will automatically participate in a protocol requiring limited pre-mediation disclosures and referral to mediation once the Answer is filed. This pilot replicates the automatic referral program for section 1983 cases in Manhattan under Local Civil Rule 83.10.

More information about both pilot programs, and the Mediation Program Procedures, will be available at <http://nysd.uscourts.gov/programs/mediation-adr>. Questions or comments about either protocol can be directed to the Court's ADR Program at 212-805-0643 or MediationOffice@nysd.uscourts.gov.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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: MEDIATION REFERRAL
: ORDER FOR CASES THAT
IN RE: FLSA PILOT PROGRAM : INCLUDE CLAIMS
: UNDER THE FAIR LABOR
: STANDARDS ACT 29
: U.S.C. § 201 *et seq.*
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Briccetti, J.:

As part of a pilot program for cases involving claims under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, the Clerk of Court is directed to enter this order in all newly filed FLSA cases on my docket. Since cases involving FLSA claims often benefit from early mediation, it is hereby

ORDERED that prior to the case management conference pursuant to a Fed. R. Civ. P. 16(b) the Court is referring this case to mediation under Local Civil Rule 83.9 and that mediation shall be scheduled within sixty days.

IT IS FURTHER ORDERED that to facilitate mediation the parties shall, within four weeks of this Order, confer and provide the following:

1. Both parties shall produce any existing documents that describe Plaintiff’s duties and responsibilities.
2. Both parties shall produce any existing records of wages paid to and hours worked by the Plaintiff (e.g., payroll records, time sheets, work schedules, wage statements and wage notices).
3. Plaintiff shall produce a spreadsheet of alleged underpayments and other damages.
4. Defendants shall produce any existing documents describing compensation policies or practices.
5. If Defendants intend to assert an inability to pay then they shall produce proof of financial condition including tax records, business records, or other documents demonstrating their financial status.

IT IS FURTHER ORDERED that in the event the parties reach settlement, pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015), they shall prepare a joint statement explaining the basis for the proposed settlement, including any provision for attorney fees, and why it should be approved as fair and reasonable. The settlement agreement and joint statement shall be presented to the assigned District Judge, or to the assigned Magistrate Judge should the parties consent to proceed for all purposes before the assigned Magistrate Judge (the appropriate form for which is available at <http://www.nysd.uscourts.gov/forms/consent-to-proceed-us-magistrate-judge>).

IT IS FURTHER ORDERED that, in the event the parties do not reach a settlement, they shall promptly meet and confer pursuant to Fed. R. Civ. P. 26(f) in preparation for their initial

pretrial conference with the Court.

Counsel who have noticed an appearance as of the issuance of this order are directed to notify all other parties' attorneys in this action by serving upon each of them a copy of this order. If unaware of the identity of counsel for any of the parties, counsel receiving this order must send a copy of this order to that party directly.

Dated: August 31, 2016
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge