

Ramirez-Marin v. JD Classic Builders Corp: Court Confirms that Opt-In Plaintiffs are Party to State Law Claims

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In *Ramirez-Marin v. JD Classic Builders Corp.*, the Court addressed a procedurally esoteric question: can a named-plaintiff assert state law claims on behalf of persons who filed “opt-in consents” to participate in the FLSA portion of an action? The Court confirmed that opt-in plaintiffs, upon filing a consent, are deemed to assert all claims contained in the action. See No. 16-CV-5584 (E.D.N.Y. Sept. 30, 2017).

The named-plaintiff filed an action alleging collective claims under the FLSA and putative class claims under the NYLL. The named-plaintiff secured conditional certification of an FLSA collective, which resulted in a number of persons filing “consents” to become opt-in plaintiffs in the suit. The named-plaintiff had not yet moved for Rule 23 class certification of the NYLL claims.

The defendant filed a partial motion to dismiss, seeking to have all NYLL claims purportedly asserted on behalf of the opt-in plaintiffs dismissed on the grounds that they were only party to the FLSA claims. In the defendant’s view, allowing opt-in plaintiffs to assert NYLL claims would amount to an end run around the requirements of Rule 23.

The Court disagreed in a succinct opinion. The Court found that upon the filing of a “consent,” an opt-in plaintiff became a party to the action and “should have the same status in relation to the claims of the lawsuit as do the named plaintiffs.” The Court based its decision on a plain reading of the text of 29 U.S.C. § 216(b), which characterizes those filing consents as “party plaintiff[s] to any such action.” The Court also rejected the argument that the named-plaintiff needed to satisfy Rule 23 at this juncture: the Court drew a distinction between the permissible assertion of state law claims by parties to an action and the certification of such claims to proceed on a class basis.

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National Law Review, Volume VII, Number 307

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