

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

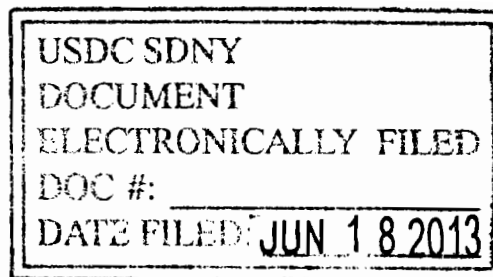
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EMMANUEL JUSTINIANO, et al.,

Plaintiffs,

-v-

PHOENIX BEVERAGES, INC., et al.,

Defendants.  
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No. 13 Civ. 2332 (LTS)

ORDER


The Court has received and reviewed carefully the following correspondence from the parties in the above-captioned matter: 1) a letter, dated June 6, 2013, from counsel for Plaintiffs, requesting leave to file a second amended complaint in light of Defendants' Motion to Dismiss the Amended Complaint; 2) a letter, dated June 6, 2013, from counsel for Defendants, requesting the adjournment of a scheduled pre-trial conference in light of the Motion to Dismiss; 3) a letter, dated June 7, 2013, from counsel for Defendants, responding to Plaintiffs' June 6, 2013 letter, and, inter alia, opposing Plaintiffs' request to file a second amended complaint; 4) a letter, dated June 7, 2013, from counsel for Plaintiffs, advising the Court and Defendants' counsel of Plaintiffs' intent to voluntarily dismiss, with prejudice, all claims arising out of the FLSA, and to dismiss, without prejudice, claims arising out of New York Labor Law; and 5) a letter, dated June 11, 2013, from counsel for Defendants, opposing Plaintiff's request to dismiss any causes of action without prejudice.

Plaintiffs must, by June 24, 2013, 1) make a written request for leave to amend their complaint, accompanied by a proposed Second Amended Complaint; 2) state in writing that

they do not wish to amend their complaint and will instead file opposition to Defendants' pending Motion to Dismiss by July 1, 2013; or 3) request the dismissal with prejudice of this action in its entirety. This Order supersedes the post-motion conference provisions of the undersigned's Individual Practice Rules and the Complex Case Pilot Procedures.

SO ORDERED.

Dated: New York, New York  
June 18, 2013



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LAURA TAYLOR SWAIN  
United States District Judge