

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARTHUR F. ENGORON
Justice

PART 37

Index Number : 650726/2013
CASTILLO, GENDRI
vs.
BNV HOME CARE AGENCY
SEQUENCE NUMBER : 003
ORDER MAINTAIN CLASS ACTION

INDEX NO. _____
MOTION DATE _____
MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ | No(s). _____

Answering Affidavits — Exhibits _____ | No(s). _____

Replying Affidavits _____ | No(s). _____

Upon the foregoing papers, it is ordered that this motion is

*decided in accordance with the
attached decision and order.*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 9/15/14



, J.S.C.

HON. ARTHUR F. ENGORON

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
- DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 37

-----X
GENDRI CASTILLO, et al.

Plaintiffs,

- against -

BNV HOME CARE AGENCY, et al.,

Defendants.
-----X

Index Number: 650726/2013

Sequence Number: 003

Decision and Order

Arthur F. Engoron, Justice

In compliance with CPLR 2219(a), this Court states that the following papers, numbered 1 to 3, were used on this motion to certify this case as a class action.

Papers Numbered:

Moving Papers	1
Opposition Papers	2
Reply Papers	3

Upon the foregoing papers, the motion is granted. As this Court noted in a prior Decision and Order, the seven instant plaintiffs claim that their former employers underpaid their wages. In that Decision and Order this Court narrowly denied defendants' motion to dismiss based upon putative releases that all seven of these plaintiffs signed. Those seven plaintiffs now move to be certified as class representatives of, perhaps, hundreds of defendants' employees.

In opposition to the motion, some of defendants' arguments are essentially re-treads of their prior arguments that the releases are, indeed, valid. However, this is an issue for summary judgment or trial, not class certification. Defendants' strongest argument is that the issue of the validity *vel non* of the releases will predominate over other issues. However, the validity issue itself has common questions of law and fact, such as the general circumstances surrounding execution of the leases. Furthermore, the liability and damage issues also raise many questions of law and fact common to the class. In the final analysis, determining whether or not plaintiffs have satisfied all of the class certification requirements of CPLR Article 9, and whether a class action "makes sense," is more of an "art" than a "science." This Court finds that plaintiffs have satisfied these requirements. See generally, Kolb v Bankers Consec Life Ins., Supreme Court, Nassau County, dec.nylj.com/1202663548752 (NYLJ 7/18/14, p 21, col 3).

Settle order on notice.

Dated: September 15, 2014



Arthur F. Engoron, J.S.C.