

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

SAMUEL PEACOCK, *on behalf of*)
himself and those similarly situated,)
)
Plaintiff,)
)
v.)
)
FIRST ORDER PIZZA, LLC,)
TY TURNER, JAMES HOLMES, DOE)
CORPORATION 1-10, and JOHN)
DOE 1-10,)
)
Defendants.)

Case No.: 2:22-cv-02315-SHM-tmp

DEFENDANTS’ MOTION FOR AN EXTENSION OF TIME TO RESPOND
TO PLAINTIFF’S MOTION FOR CONDITIONAL CERTIFICATION

Defendants First Order Pizza, LLC (“First Order”), Ty Turner (“Turner”), and James Holmes (“Holmes”) (together, the “Defendants”), by and through its undersigned counsel, hereby respectfully move this Court for an extension, up to and including August 10, 2022, within which to respond to Plaintiff’s Motion for Conditional Certification. [D.E. 21]. In support of this Motion, Defendants state as follows:

1. Plaintiff filed his Complaint on May 20, 2022 in the United States District Court for the Western District of Tennessee. [D.E. 1].
2. On July 6, 2022, Defendants filed a Motion to Dismiss and Compel Arbitration. [D.E. 19]. The same day, Plaintiff filed a Motion for Conditional Certification of FLSA Collective Action. [D.E. 21].

3. On July 8, 2022, Defendants filed a Motion to Stay Plaintiff's Motion for Conditional Certification, pending the resolution of Defendants' dispositive motion. [D.E. 22].

4. Pursuant to L.R. 7.2(a)(2), the deadline for Defendants to file a response to Plaintiff's Motion for Conditional Certification is Wednesday, July 20, 2022.

5. Plaintiff's response to Defendants' Motion to Stay is due on July 22, 2022. (L.R. 7.2(a)(2)).

6. Because the Court has not ruled on Defendants' Motion to Stay, which may impact whether Defendants would be required to file an Opposition to Plaintiff's Motion for Conditional Certification, Defendants respectfully request additional time so the Court can rule on Defendants' Motion to Stay, and, if denied, for Defendants to review and respond to Plaintiff's Motion.

7. Additionally, Defendants' counsel of record has a trial starting with the National Labor Relations Board starting on Wednesday, July 20, 2022.

WHEREFORE, for the foregoing reasons and good cause shown, Defendants First Order Pizza, LLC, Ty Turner, and James Holmes ("Holmes") respectfully request additional time to move, plead, or otherwise respond to Plaintiff's Motion for Conditional Certification, up to and including August 10, 2022.

Respectfully submitted on this, the 18th day of July, 2022.

/s/ Courtney Leyes

Courtney Leyes (TN Bar No. 034012)

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Counsel for Defendants

CERTIFICATE OF CONSULTATION

On July 18, 2022, Counsel for the Defendants, Courtney Leyes, reached out to counsel for Plaintiff, Riley Kane (admitted *pro hac vice*), via email, requesting an extension of time to file a Response to Plaintiff's Motion for Conditional Certification. Mr. Kane said he was amenable to agreeing to the professional courtesy in exchange for a tolling agreement. Defendants declined Mr. Kane's offer.

DATED this, the 18th day of July, 2022.

/s/ Courtney Leyes

Courtney Leyes

CERTIFICATE OF SERVICE

I, Courtney Leyes, hereby certify that on this, the 18th day of July, 2022, I electronically filed the foregoing *Defendant's Motion for an Extension of Time to Respond to Plaintiff's Motion for Conditional Certification* with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following counsel of record:

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/s/ Courtney Leyes
Courtney Leyes