

# **Group Exhibit A**

LAW OFFICES

Caffarelli & Associates  
L I M I T E D

224 SOUTH MICHIGAN AVENUE, SUITE 300 • CHICAGO, IL 60604  
TEL (312) 763-6880 • www.caffarelli.com

January 22, 2015

**VIA E-MAIL**

rob@rhanlonlaw.com

Mr. Robert T. Hanlon  
14212 Washington Street  
Woodstock, Illinois 60098

*Re: Vargas v. Tommy's Red Hots, et al. (14-cv-7144)*  
*LR37.2 Immigration Status*

Dear Mr. Hanlon:

This letter is sent pursuant to Local Rule 37.2 in an effort to address certain issues you raised in court on January 9, 2015. Specifically, you stated that Defendants wished to conduct discovery prior to a determination on Plaintiff's motion for class certification to determine Mr. Vargas' immigration status. As I understand, Defendants seek this information because, they assert, Mr. Vargas' immigration status impacts (1) his entitlement to relief, and (2) his ability to serve as a class representative.

As you know, Plaintiff withdrew his Motion to Certify a Class Action without prejudice. However, I am sending this letter now because Defendants' position also relates to a purported defense and damages, which are arguments that persist irrespective of class certification. Moreover, Mr. Poper also previously mentioned to me that Defendants believed Mr. Vargas is undocumented, but had not sought to have him deported because they know Mr. Vargas has his family here in the United States. The purpose of this letter is to ascertain whether Defendants will pursue discovery regarding Mr. Vargas' immigration status.

If so, I urge you to reconsider. An employer is prohibited from using discovery to inquire into the immigration status of an employee who files a putative class action, alleging violations of the Fair Labor Standards Act (FLSA) and Illinois Minimum Wage Law (IMWL), because an employee's status as an undocumented worker does not affect his ability to recover. Nieves v. OPA, Inc., 948 F. Supp. 2d 887, 892 (N.D. Ill. 2013). In fact, "discovery regarding a plaintiff's immigration status is not relevant to any claim or defense" in an FLSA case. Villareal v. El Chile, 266 F.R.D. 207, 214 (N.D. Ill. 2010). A plaintiff's immigration status is irrelevant to his ability to represent other class members, credibility, Rule 23 class certification, and collective action certification under the FLSA. Galaviz-Zamora v. Brady Farms, Inc., 230 F.R.D. 499, 503 (W.D.Mich.2005); accord Montoya v. S.C.C.P. Painting Contractors, Inc., 530 F.Supp.2d 746 (D.Md. 2008). Allowing an employer to inquire after immigration status in an FLSA claim would incentivize employers to hire undocumented workers because employers could pay lower

wages by ‘ignoring’ immigration status until the employee complains, then use immigration as a threat to enforce silence; this tactic creates an *in terrorem* effect to harass and deter employees from asserting their rights. See Villareal, 266 F.R.D. at 214. See also Flores v. Amigon, 223 F.Supp.2d 462 (E.D.N.Y. 2002); Patel v. Quality Inn South, 846 F.2d 700 (11th Cir. 1988).

In light of the case law on this issue, Plaintiff proposes that the parties stipulate that any discovery taken cannot include inquiry into Mr. Vargas’ immigration status. If the parties cannot agree, Plaintiff is prepared to take any and all action to defend himself against such unwarranted inquisition in to his immigration status, beginning by moving for a protective order. The courts have routinely granted protection orders to plaintiffs in FLSA cases, barring inquiry in to plaintiff’s immigration status, social security number, and tax filings (which is recognized as another roundabout method of seeking immigration information). See e.g. Nieves, 948 F. Supp. 2d 887; Villareal, 266 F.R.D. 207; Galaviz-Zamora, 230 F.R.D. 499.

Please provide a response or contact me to further discuss this issue by February 5, 2015.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alexis D. Martin', with a stylized, cursive script.

Alexis D. Martin



Alexis Martin &lt;amartin@caffarelli.com&gt;

---

**LR37.2 and Scheduling 26(f) Conference**

6 messages

---

**Alexis Martin** <amartin@caffarelli.com>  
To: rob@rhanlonlaw.com

Thu, Jan 22, 2015 at 5:41 PM

Good evening Mr. Hanlon:

Please review the attached LR37.2 letter.

In addition, though Defendants' Motion to Dismiss is pending, our joint status report is due February 12. I would like to schedule our 26(f) conference. Are you available to speak either February 6 or 9? On February 6, I am available after 10:30AM. On February 9, if there is a time that works best for you, my schedule is flexible.

Regards,  
Alexis

--

**Alexis D. Martin**  
**Caffarelli & Associates Ltd.**  
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Chicago, IL 60604  
Tel: (312) 763-6880  
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**150122 Plaintiff LR37.2 LTR\_Vargas.pdf**  
205K

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**Alexis Martin** <amartin@caffarelli.com>  
To: rob@rhanlonlaw.com

Mon, Feb 9, 2015 at 6:53 PM

Good evening Mr. Hanlon:

The joint initial status report for Vargas v. Tommy's Red Hots, et al. is due this Thursday, February 12. Are you available to speak tomorrow or Wednesday afternoon?

Regards,  
Alexis

On Thu, Jan 22, 2015 at 5:41 PM, Alexis Martin <amartin@caffarelli.com> wrote:

Good evening Mr. Hanlon:

Please review the attached LR37.2 letter.

In addition, though Defendants' Motion to Dismiss is pending, our joint status report is due February 12. I would like to schedule our 26(f) conference. Are you available to speak either February 6 or 9? On February 6, I am available after 10:30AM. On February 9, if there is a time that works best for you, my schedule is flexible.

Regards,  
Alexis

--

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[www.caffarelli.com](http://www.caffarelli.com)

--  
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---

**Robert Hanlon** <Rob@rhanlonlaw.com>  
To: Alexis Martin <amartin@caffarelli.com>

Mon, Feb 9, 2015 at 11:43 PM

Ms Martin:

Your letter below references a 37.2 conference and I have not received any discovery form you. I believe we have tendered to you the 26(a)'s. If you don't hve them let me know.

As to the initial status I do not see a status attached.

I recently moved my office and sent notice to you. But the move was somewhat problematic and my phones were down for 3.5 weeks.

I can be avail in the morning to discuss these issues.

**From:** Alexis Martin [mailto:[amartin@caffarelli.com](mailto:amartin@caffarelli.com)]  
**Sent:** Monday, February 09, 2015 6:53 PM  
**To:** Robert Hanlon  
**Subject:** Re: LR37.2 and Scheduling 26(f) Conference

Good evening Mr. Hanlon:

The joint initial status report for Vargas v. Tommy's Red Hots, et al. is due this Thursday, February 12. Are you available to speak tomorrow or Wednesday afternoon?

Regards,

Alexis

On Thu, Jan 22, 2015 at 5:41 PM, Alexis Martin <[amartin@caffarelli.com](mailto:amartin@caffarelli.com)> wrote:

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In addition, though Defendants' Motion to Dismiss is pending, our joint status report is due February 12. I would like to schedule our 26(f) conference. Are you available to speak either February 6 or 9? On February 6, I am available after 10:30AM. On February 9, if there is a time that works best for you, my schedule is flexible.

Regards,

Alexis

--

**Alexis D. Martin**

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**Chicago, IL 60604**

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--

**Alexis D. Martin**

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---

**Robert Hanlon** <Rob@rhanlonlaw.com>  
To: Alexis Martin <amartin@caffarelli.com>

Tue, Feb 10, 2015 at 12:02 AM

Ms. Martin:

Unless and until I propound discovery in this case, your objections are misplaced. However, your problems with this case are far more significant than that articulated in your "37.2 letter". Although, I object to the characterization as a 37.2 letter because there cannot be a discovery dispute until discovery commences. Thus, I will afford your communication the weight of an anticipatory objection. Nevertheless, at the time that I propound discovery I will raise all issues including those related to the good faith extension or modification of

existing law. You can then raise your objections. Perhaps the long standing NLRB cases that were recently reversed were done so because of the high court's position on the legitimacy of raising the illegal status issue. Well I don't know what Mr. Poper raised with you as to what you call "undocumented" status or I call "Illegal", it is an issue that will raise its head at an appropriate time. Additionally, you should be apprised that several individuals articulated that Mr. Vargus' circumstances of his departure clearly separate him from the rest of the employees.

I trust that you should have my Rule 11 Safe harbor letter before the end of the week. We can address discovery if and when you have a complaint that the court allows to stand. If not stricken, your client will have to disclose what his purported claim is and the basis for his claim. As referenced in my reply brief, the proverbial "pea hidden in the mattresses" is always discovered.

I do not understand why you think it tactically advantageous to play games re damages and the like. Nevertheless, although I was born, I was not born yesterday. You will receive all of the discovery that I intend to propound at the time I intend to propound it.

Robert T. Hanlon

131 East Calhoun

Woodstock, Illinois 60098

**From:** Alexis Martin [mailto:[amartin@caffarelli.com](mailto:amartin@caffarelli.com)]

**Sent:** Thursday, January 22, 2015 5:41 PM

**To:** Robert Hanlon

**Subject:** LR37.2 and Scheduling 26(f) Conference

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**Alexis D. Martin**

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Tel: (312) 763-6880

[www.caffarelli.com](http://www.caffarelli.com)

**Alexis Martin** <[amartin@caffarelli.com](mailto:amartin@caffarelli.com)>  
To: Robert Hanlon <[Rob@rhanlonlaw.com](mailto:Rob@rhanlonlaw.com)>

Tue, Feb 10, 2015 at 11:28 AM

Mr. Hanlon:

As stated in my 37.2 letter, the purpose of the letter was to see if we could reach an agreement regarding the exclusion of immigration inquiries in discovery, assuming the case proceeds.

Currently, however, we still need to hold a 26(f) conference and to submit a joint initial status report. I have not received 26(a) disclosures, nor have any dates been set. Although the Defendants' Motion to Dismiss is pending, the last minute order states that the February 19th date is an 'initial status' date. Judge Wood requires the joint initial status report to be filed seven days prior. I will prepare and send you a draft report once we confer. I am available to speak any time after 1:30 today. Tomorrow I will be in court in the morning, but will be available any time after 10:30. Please let me know if you are available to speak during any of these times.

Regards,  
Alexis

On Tue, Feb 10, 2015 at 12:02 AM, Robert Hanlon <[Rob@rhanlonlaw.com](mailto:Rob@rhanlonlaw.com)> wrote:

Ms. Martin:

Unless and until I propound discovery in this case, your objections are misplaced. However, your problems with this case are far more significant than that articulated in your "37.2 letter". Although, I object to the characterization as a 37.2 letter because there cannot be a discovery dispute until discovery commences. Thus, I will afford your communication the weight of an anticipatory objection. Nevertheless, at the time that I propound discovery I will raise all issues including those related to the good faith extension or modification of existing law. You can then raise your objections. Perhaps the long standing NLRB cases that were recently reversed were done so because of the high court's position on the legitimacy of raising the illegal status issue. Well I don't know what Mr. Poper raised with you as to what you call "undocumented" status or I call "Illegal", it is an issue that will raise its head at an appropriate time. Additionally, you should be apprised that several individuals articulated that Mr. Vargas' circumstances of his departure clearly separate him from the rest of the employees.

I trust that you should have my Rule 11 Safe harbor letter before the end of the week. We can address discovery if and when you have a complaint that the court allows to stand. If not stricken, your client will have to disclose what his purported claim is and the basis for his claim. As referenced in my reply brief, the proverbial "pea hidden in the mattresses" is always discovered.

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Robert T. Hanlon

131 East Calhoun

Woodstock, Illinois 60098

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**Sent:** Thursday, January 22, 2015 5:41 PM  
**To:** Robert Hanlon  
**Subject:** LR37.2 and Scheduling 26(f) Conference

Good evening Mr. Hanlon:

Please review the attached LR37.2 letter.

In addition, though Defendants' Motion to Dismiss is pending, our joint status report is due February 12. I would like to schedule our 26(f) conference. Are you available to speak either February 6 or 9? On February 6, I am available after 10:30AM. On February 9, if there is a time that works best for you, my schedule is flexible.

Regards,

Alexis

--

**Alexis D. Martin**

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**Chicago, IL 60604**

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**[www.caffarelli.com](http://www.caffarelli.com)**

--

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---

**Alexis Martin** <[amartin@caffarelli.com](mailto:amartin@caffarelli.com)>  
To: Joanna Germann Zalewski <[jgermann@caffarelli.com](mailto:jgermann@caffarelli.com)>

Fri, Jan 29, 2016 at 12:40 PM

----- Forwarded message -----

From: **Robert Hanlon** <[Rob@rhanlonlaw.com](mailto:Rob@rhanlonlaw.com)>  
Date: Mon, Feb 9, 2015 at 11:43 PM  
Subject: RE: LR37.2 and Scheduling 26(f) Conference  
To: Alexis Martin <[amartin@caffarelli.com](mailto:amartin@caffarelli.com)>

Ms Martin:

Your letter below references a 37.2 conference and I have not received any discovery form you. I believe we have tendered to you the 26(a)'s. If you don't hve them let me know.

As to the initial status I do not see a status attached.

I recently moved my office and sent notice to you. But the move was somewhat problematic and my phones were down for 3.5 weeks.

I can be avail in the morning to discuss these issues.

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Alexis

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Regards,

Alexis

--

**Alexis D. Martin****Caffarelli & Associates Ltd.****224 S. Michigan Ave., Ste. 300****Chicago, IL 60604****Tel: (312) 763-6880****[www.caffarelli.com](http://www.caffarelli.com)**

--

**Alexis D. Martin****Caffarelli & Associates Ltd.****224 S. Michigan Ave., Ste. 300****Chicago, IL 60604****Tel: (312) 763-6880****[www.caffarelli.com](http://www.caffarelli.com)**

--

**Alexis D. Martin****Caffarelli & Associates Ltd.****224 S. Michigan Ave., Ste. 300****Chicago, IL 60604****Tel: (312) 763-6880****[www.caffarelli.com](http://www.caffarelli.com)**

# **Group Exhibit B**



Alexis Martin &lt;amartin@caffarelli.com&gt;

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**Vargas v. Tommy's (14-cv-7144) - Status Report**

6 messages

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**Alexis Martin** <amartin@caffarelli.com>  
To: Robert Hanlon <rob@rhanlonlaw.com>

Thu, Feb 12, 2015 at 2:37 PM

Mr. Hanlon:

Thank you for speaking with me today for our 26(f) conference. As discussed, please find attached a draft of the Joint Initial Status Report, which is due to be filed today. Please let me know by the end of the day if you have any changes you would like made. Once I receive your revisions, I will file the report.

Regards,  
Alexis

--

**Alexis D. Martin**  
Caffarelli & Associates Ltd.  
224 S. Michigan Ave., Ste. 300  
Chicago, IL 60604  
Tel: (312) 763-6880  
[www.caffarelli.com](http://www.caffarelli.com)



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**150212 Initial Status Report\_Vargas v1.docx**  
112K

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**Alexis Martin** <amartin@caffarelli.com>  
To: Robert Hanlon <rob@rhanlonlaw.com>

Thu, Feb 12, 2015 at 6:23 PM

Could you please send your revisions so we can finalize and file the report? If the revisions aren't done, when do you expect to finish?

Thank you,  
Alexis

[Quoted text hidden]

---

**Robert Hanlon** <Rob@rhanlonlaw.com>  
To: Alexis Martin <amartin@caffarelli.com>

Thu, Feb 12, 2015 at 9:27 PM

It's on my pic and I thought I sent it out before I left in an hr away,

Sent from my iPhone

[Quoted text hidden]

---

**Alexis Martin** <amartin@caffarelli.com>  
To: Robert Hanlon <Rob@rhanlonlaw.com>

Fri, Feb 13, 2015 at 12:50 PM

I still have not received the report. Please send your revisions today.

Thank you,  
Alexis

[Quoted text hidden]

---

**Robert Hanlon** <Rob@rhanlonlaw.com>  
To: Alexis Martin <amartin@caffarelli.com>

Fri, Feb 13, 2015 at 1:17 PM

Please see attached. Sorry for the delay

**From:** Alexis Martin [mailto:[amartin@caffarelli.com](mailto:amartin@caffarelli.com)]  
**Sent:** Friday, February 13, 2015 12:50 PM  
**To:** Robert Hanlon  
**Subject:** Re: Vargas v. Tommy's (14-cv-7144) - Status Report

[Quoted text hidden]



**150212 Initial Status Report\_Vargas v1.docx**

28K

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**Alexis Martin** <[amartin@caffarelli.com](mailto:amartin@caffarelli.com)>  
To: Robert Hanlon <[Rob@rhanlonlaw.com](mailto:Rob@rhanlonlaw.com)>

Fri, Feb 13, 2015 at 2:14 PM

Thank you.

[Quoted text hidden]

# Exhibit C



Alexis Martin &lt;amartin@caffarelli.com&gt;

---

**Vargas v. Tommy's, et al. - LR 37.2 Defendants' Initial Disclosures**

2 messages

---

**Alexis Martin** <amartin@caffarelli.com>  
To: Robert Hanlon <rob@rhanlonlaw.com>  
Cc: mpoplaw@sbcglobal.net

Mon, Mar 16, 2015 at 4:53 PM

Good afternoon Mr. Hanlon:

Please review the attached LR 37.2 letter.

Regards,  
Alexis

--

**Alexis D. Martin**  
Caffarelli & Associates Ltd.  
224 S. Michigan Ave., Ste. 300  
Chicago, IL 60604  
Tel: (312) 763-6880  
[www.caffarelli.com](http://www.caffarelli.com)



---

**150316 LTR 37.2\_Initial Disclosures\_Vargas.pdf**  
199K

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**Alexis Martin** <amartin@caffarelli.com>  
To: Michael Poper <mcplaw@sbcglobal.net>

Tue, Mar 17, 2015 at 9:51 AM

Good morning Mr. Poper:

Yesterday I sent the email below and attached letter, but mistakenly included the wrong email address for you.

Regards,  
Alexis

[Quoted text hidden]



---

**150316 LTR 37.2\_Initial Disclosures\_Vargas.pdf**  
199K

LAW OFFICES

Caffarelli & Associates  
L I M I T E D

224 SOUTH MICHIGAN AVENUE, SUITE 300 • CHICAGO, IL 60604  
TEL (312) 763-6880 • www.caffarelli.com

March 16, 2015

**VIA E-MAIL**

rob@rhanlonlaw.com

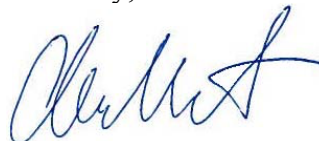
Mr. Robert Hanlon  
Law Offices of Robert T. Hanlon  
131 E. Calhoun Street  
Woodstock, Illinois 60098

*RE: Rene Vargas v. Tommy's Redhots, et al. (14-cv-7144)*  
*L.R. 37.2 – Defendants' Initial Disclosures*

Dear Mr. Hanlon:

I am sending you this letter pursuant to Local Rule 37.2 to address production of Defendants' FRCP 26(a)(1) Initial Disclosures. On February 19, 2015, the Court ordered the parties to issue their Initial Disclosures by March 5, 2015. D.E. 23. As of the date of this letter, we have not received Defendants' Initial Disclosures. Please tender all responsive documents by March 20, 2015 or if you do not intend to make the disclosures, when you are available this week to discuss.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alexis D. Martin".

Alexis D. Martin

cc: Michael C. Poper

# **Exhibit D**



Alexis Martin &lt;amartin@caffarelli.com&gt;

---

## Vargas v. Tommy's Red Hots, et al. - Plaintiff's Discovery

---

**Robert Hanlon** <Rob@rhanlonlaw.com>  
To: Alexis Martin <amartin@caffarelli.com>

Mon, Mar 23, 2015 at 1:30 PM

Ms. Martin

Appearantly you sent a letter to Mr. Poper that you have not received these attached 26 a's.

Please make sure that you copy me to all corresponodence on this case.

Respectfully,

Robert T. Hanlon

**From:** Alexis Martin [mailto:[amartin@caffarelli.com](mailto:amartin@caffarelli.com)]  
**Sent:** Friday, February 13, 2015 7:35 PM  
**To:** Robert Hanlon  
**Cc:** [mcplaw@sbcglobal.net](mailto:mcplaw@sbcglobal.net); Alejandro Caffarelli  
**Subject:** Vargas v. Tommy's Red Hots, et al. - Plaintiff's Discovery

[Quoted text hidden]



**26a 2-23.pdf**  
1768K

# Exhibit E



Alexis Martin <amartin@caffarelli.com>

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## Proposed Discovery Plan

---

**Alejandro Caffarelli** <acaffarelli@caffarelli.com>  
To: "rob@rhanlonlaw.com" <rob@rhanlonlaw.com>  
Bcc: amartin@caffarelli.com

Tue, Jan 19, 2016 at 10:52 AM

Hello Robert -- I understand that the parties have a proposed discovery plan due on Thursday, the 21st. Are you free to discuss later today? Please advise, thank you.

 Alejandro Caffarelli  
www.caffarelli.com



Alexis Martin &lt;amartin@caffarelli.com&gt;

---

## Proposed Discovery Plan

---

**Alejandro Caffarelli** <acaffarelli@caffarelli.com>  
To: "rob@rhanlonlaw.com" <rob@rhanlonlaw.com>  
Bcc: amartin@caffarelli.com

Thu, Jan 21, 2016 at 12:11 PM

Robert -- The discovery plan is apparently due today, can you please review the attached and let me know if you have any edits and whether you approve? Thank you.



---

**160121 Proposed Discovery Plan\_Vargas\_v1.docx**  
114K

# **Exhibit**

# **F**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RENE VARGAS, on behalf of himself  
and all other similarly situated  
persons, known and unknown,

Plaintiffs,

-vs-

TOMMY'S REDHOTS, INC.,

Defendant.

No. 14 C 7144

Chicago, Illinois  
January 28, 2016  
9:00 a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE ANDREA R. WOOD

APPEARANCES:

For the Plaintiff:

CAFFARELLI & ASSOCIATES LTD.  
224 South Michigan Ave.  
Chicago, Illinois 60604  
BY: MR. ALEJANDRO CAFFARELLI

For the Defendant:

LAW OFFICES OF  
ROBERT T. HANLON & ASSOCIATES, P.C.  
131 East Calhoun Street  
Woodstock, Illinois 60098  
BY: MR. ROBERT T. HANLON

COLETTE M. KUEMMETH, CSR, RMR, FCRR  
OFFICIAL COURT REPORTER  
219 South Dearborn Street  
Room 1928  
Chicago, Illinois 60604  
(312) 554-8931

1 (Proceedings heard in open court:)

2 THE CLERK: Case 14 CV 7144, Vargas versus Tommy's  
3 Redhots.

4 MR. CAFFARELLI: Good morning, your Honor. Alex  
5 Caffarelli for the plaintiff. It looks like I'm alone,  
6 Judge.

7 THE COURT: It does. Have you had any contact --  
8 there was a filing from the defendant, a motion for leave to  
9 file an answer instanter. Did you have any reason to think  
10 that defense counsel was not going to be here?

11 MR. CAFFARELLI: No, I didn't. I got a call from  
12 him at 4:00 o'clock yesterday, late afternoon. My  
13 receptionist told me that he wanted to discuss Rule 26  
14 disclosure issues, but I was working on a brief, and I said  
15 to her to tell him we would just talk in court this morning.  
16 So that's all that I heard. So...

17 THE COURT: What I'd like to do, because I would  
18 very much like to have defense counsel here to find out what  
19 is going on with the failure to file the answer on time, if  
20 you don't mind, I'd like to pass the case for a few minutes  
21 and re-call it and see if he's just running a little bit  
22 late.

23 MR. CAFFARELLI: Sure. I do have a call before  
24 Judge Alonzo at 9:30, so if we could squeeze it in before  
25 then I'd appreciate that.

1 THE COURT: Yes. We'll re-call the case before  
2 9:30.

3 MR. CAFFARELLI: Thank you, Judge.

4 (The Court attended to other matters, after which the  
5 following proceedings were held:)

6 THE CLERK: Re-calling case 14 CV 7144, Vargas  
7 versus Tommy's Redhots.

8 MR. CAFFARELLI: Alex Caffarelli for the plaintiff.

9 MR. HANLON: Good morning, your Honor. Robert  
10 Hanlon on behalf of the defendants.

11 THE COURT: Okay. Good morning.

12 So Mr. Hanlon, I saw that you're requesting to file  
13 your answer instanter. What happened that you weren't able  
14 to file it by the date I set?

15 MR. HANLON: Judge, you had ordered the plaintiff  
16 to tender a copy to me within 40 hours from the last time we  
17 were present, which was the 21st of December. I received on  
18 January 4th a copy of their first amended complaint  
19 containing 12 pages plus exhibits. One of the exhibits was  
20 clearly something that says: "Error, undefined defending  
21 command." I really believe that was an error.

22 I attempted to file an answer in the time frame  
23 that you had set forth, but I couldn't do that because each  
24 time I attempted to upload the document there is a thing  
25 called Java something on the computer that works with

1 different browsers. Anyway, I hired a company called Wave  
2 Tech to come out to my office and fix that. They fixed that  
3 on the 15th.

4 I contacted my opposing counsel's office to ask to  
5 file that instanter as an unopposed motion. I left them a  
6 message; 15 minutes later I get a default from my opposing  
7 counsel.

8 I even attempted to contact my opposing counsel  
9 yesterday, and I was told by the receptionist that he refused  
10 to speak with me. And I asked to speak with the other  
11 counsel, Alexis Martin, and she also refused to speak with  
12 me.

13 So Judge, I'd like to file motions such as that on  
14 an unopposed basis if at all possible, but my opposing  
15 counsel can't talk to me, and then I'm getting something on  
16 January 4th that I was supposed to get on December 23rd, just  
17 before Christmas, then I lost all that time in which to get  
18 it done.

19 THE COURT: Any response?

20 MR. CAFFARELLI: Yes. It's hard for me to know  
21 where to begin here. And it's -- boy. Where do I begin?

22 THE COURT: Let's begin; was the -- when was the  
23 complaint emailed to Mr. Hanlon?

24 MR. CAFFARELLI: It was e-mailed within the 24 to  
25 48 -- it was emailed and mailed versus U.S. mail, I

1 believe -- I'm looking at counsel's paper here -- it appears  
2 he's referring to the paper copy. So I find it hard to  
3 believe that it took that long for the paper copy to get to  
4 him. But I have proof that it was also e-mailed to him in a  
5 timely manner.

6 I guess I'm just kind of incredulous here. I mean,  
7 counsel is an E-filer, and he can go on PACER and pull the  
8 complaint, you know. And it seems like that we need to  
9 deliver the complaint to him on a silver platter.

10 I just frankly don't believe the ECF issues -- I  
11 just don't believe that in light of the course of conduct  
12 that's been happening here, and particularly what he just  
13 said with regard to the timing of the default. We filed the  
14 default before ever hearing from counsel. Counsel, after  
15 getting the default, called us about filing his motion for  
16 leave to file his answer late. And then in his motion he  
17 says that we never responded to him, which is categorically  
18 untrue. I have my email from him that was emailed to him  
19 that I sent within 45 minutes of his call -- I'm happy to  
20 give it to the Court if the Court needs to see it -- saying  
21 that under the totality of the circumstances, given his past  
22 conduct in this case, which has included constant threats to  
23 file Rule 11 sanctions against my associate, completely  
24 ungrounded threats -- it's just a bizarre way to practice.  
25 And then he files a motion saying that I never responded,

1 which is just categorically untrue.

2 THE COURT: Can you hand the email to my deputy so  
3 I can take a look at it? I don't suppose you have an extra  
4 copy for Mr. Hanlon.

5 MR. CAFFARELLI: I don't.

6 MR. HANLON: Judge, with respect to that email, I  
7 received that after I filed or -- within a second or so of my  
8 filing my motion. I had already typed up my motion to file  
9 and filed my motion.

10 MR. CAFFARELLI: If you look at the time stamps,  
11 you know, we sent that 15 minutes prior to his motion. So  
12 what really happened is he got my email, realized we weren't  
13 going to agree, and then he filed his motion. So it's  
14 disingenuous to say that I didn't respond to him after he  
15 reached out to me to file his motion.

16 I would actually, I mean, if the Court is  
17 considering allowing counsel leave to file a late answer, I  
18 would like to brief this. Because I think this all needs to  
19 come to light. Even to the extent that my associate told me  
20 last time, she came back to my office after the last status  
21 and said: I didn't know Michael Poper was so young, I  
22 thought he was an old man.

23 And I said, he is an old man. He was admitted in  
24 1968.

25 She said: Oh, there was a 30-year-old that stepped

1 up and said I'm Michael Poper, and I'm withdrawing.

2 And why somebody would come into court and lie to  
3 the judge and say that they're Michael Poper, it doesn't make  
4 sense. They didn't need to do that. Michael Poper could  
5 have come himself.

6 But it's just these little lies and these little  
7 misrepresentations which have been cumulative in this case  
8 and the level of vitriol that we have been getting from  
9 opposing counsel, which I've just never experienced before,  
10 and I would like to lay it out before the Court.

11 THE COURT: I'm sorry. I do recall last time the  
12 prior attorney, who I understand to be Mr. Poper, he's the  
13 person who has the conflict because he has factual  
14 information?

15 MR. CAFFARELLI: Yes.

16 THE COURT: And you're saying that was not actually  
17 Michael Poper? Is it his son who is in the right age range?

18 MR. CAFFARELLI: I went to the ARDC to confirm my  
19 understanding, and he was admitted in 1968. So he's got to  
20 be at least 70 years old.

21 THE COURT: Maybe he just looks very young and  
22 takes good care of himself. Diet and exercise.

23 MR. CAFFARELLI: Possibly. But it's just  
24 demonstrative of what I have been dealing with here. We say  
25 things, we send things, we make calls that apparently counsel

1 denies receiving, denies I ever said. And so it's hard,  
2 because it seems like we're playing by two different sets of  
3 rules here.

4 THE COURT: Okay. Well, Mr. Hanlon, let me give  
5 you a chance to respond.

6 MR. HANLON: First of all, Judge, I was here last,  
7 I saw no 30-year-old attorney approach the bench and  
8 represent himself to be Mr. Poper. Had I seen that I would  
9 certainly have informed the Court. Because I know Mr. Poper,  
10 and I also know his partner. It was his partner who appeared  
11 here. And his partner is in his 70s as well. Although I  
12 believe that the Court -- he addressed the Court with respect  
13 to his request, and he asked to be excused early, and he  
14 left.

15 So to contend that some 30 year-old person was here  
16 on behalf of Mr. Poper I think really speaks to some of the  
17 inconsistencies that I'm hearing. So you can see it for  
18 yourself, Judge, that what they say here as a fact isn't  
19 necessarily a fact. And since you were here, I'm sure that  
20 you know what took place in your own courtroom.

21 THE COURT: I will tell you what I do recall from  
22 the last time you were here is that there seemed to be quite  
23 a bit of hostility and some perhaps a communication breakdown  
24 between the parties, and I can see that that has not resolved  
25 itself.

1           There was a mention of briefing. What is it  
2 exactly that you would like to brief?

3           MR. CAFFARELLI: To the extent, you know, he's  
4 making representations that he contacted me before he filed  
5 his motion, which are just false representations, I would  
6 like to correct those representations.

7           I normally don't oppose these things. This is  
8 difficult for me, because I am always -- and, you know, you  
9 don't know me, Judge, you have recently been elevated to the  
10 bench, but I never oppose these things unless there are  
11 unusual or strange circumstances. This is one of these  
12 cases. It was filed in 2014, and then apparently -- which  
13 I'm now starting to doubt, due to the defendant's health  
14 conditions we kept getting requests for extensions and  
15 extensions and extensions, and months later we finally got  
16 the motion.

17           My associate had to try to schedule Rule 26  
18 conferences, it was -- contacted opposing counsel four times  
19 with no response. The joint status revisions were late.  
20 They failed to tender their initial disclosures on time back  
21 in March of 2014 after the Court had ordered that the initial  
22 disclosures be exchanged. The answer to the first amended  
23 complaint was due November 16th of 2015. Nothing was filed.  
24 The Court then grants an additional time to file on -- on  
25 January 6th of 2016. Nothing is filed. After the renewed

1 motion is filed then finally they file their motion for leave  
2 to answer and are pretending that they actually reached out  
3 to us before we filed our motion for default. Which is just  
4 categorically untrue.

5 It's just the length of time this has taken, the  
6 course of conduct throughout that has led me to put my foot  
7 down and say I can't stand by while these representations are  
8 made and this case gets dragged on and dragged on. My  
9 associate is so traumatized she refuses -- which is true --  
10 she refuses to speak to him anymore, because every time they  
11 have a phone conversation, something that she said or didn't  
12 say is misrepresented. So she insists on having everything  
13 in writing. And I certainly don't blame her.

14 I just -- for all of these reasons, it's mind  
15 boggling to me. This is a hotdog stand, this is a minor wage  
16 case, and every conversation from the beginning of this case  
17 with my associate from -- with Mr. Hanlon began and ended  
18 with a threat to her about filing Rule 11 sanctions and to  
19 file a motion to show cause. Which was completely unfounded.  
20 And again, not the way we normally practice. So I just don't  
21 know what to say.

22 THE COURT: So is your request then that I deny  
23 leave to file the answer, or would you be seeking some sort  
24 of sanctions? Because there are two different options here.

25 MR. CAFFARELLI: Correct.

1 THE COURT: One thing, my first reaction is that it  
2 makes sense to get the case moving, notwithstanding this  
3 dispute, to allow the answer to be filed, and if you'd like  
4 to make a request for sanctions based on the conduct that  
5 you've described, that can be briefed, I can hear what both  
6 sides have to say on it and take an appropriate action, and  
7 meanwhile the case can go forward with an answer on file and  
8 discovery.

9 Alternatively, you can say that what you really  
10 want is to try to push for default. I would say under the  
11 circumstances I'd be less inclined to go that route because  
12 if it turns out that there is misconduct by the attorneys,  
13 the default really only punishes the clients. I would  
14 consider that request if that's what you're asking for.

15 How would you prefer to proceed?

16 MR. CAFFARELLI: As much as I'm going to hate  
17 myself for saying this, as my associate is going to get upset  
18 with me, I would prefer to just move forward with this case.  
19 It's been pending for a very long time. And it's not in my  
20 nature to seek sanctions against counsel, despite what I  
21 believe to be the course of conduct here.

22 But I just want to use this opportunity to put the  
23 Court on notice that this is happening and I'd like to put a  
24 stop to it. And I'd like our communications to be cordial  
25 without Rule 11 threats. I would like discovery to be

1       amicable and mutual.

2               We filed a discovery plan. I never heard back from  
3 counsel on the filing of a joint discovery plan, so we had to  
4 file one on our own. If that can be done, I would like to  
5 move forward with the case, Judge. If it can't be done, it  
6 can't be done. If counsel can agree to work with me to  
7 exchange discovery and move forward with this case, I would  
8 like to move forward with the case.

9               MR. HANLON: May I address that, Judge?

10              THE COURT: Go ahead.

11              MR. HANLON: Judge, my opposing counsel has just  
12 articulated that his associate, Ms. Martin, won't speak with  
13 me. Now he says that he doesn't hear from me in response to  
14 some purported call. I haven't received any purported call  
15 from him with respect to setting forth a status report. We  
16 don't have a motion on file for Rule 23 class certification  
17 which they -- which the Court had indicated that it wanted us  
18 to confer with. I put that in my email to opposing counsel  
19 last night.

20              I attempted to conduct a 37.2 conference. As the  
21 Court knows, the last time I was here I articulated that in  
22 response to the 26(a) disclosures there was no calculation of  
23 damages, just more or less a recital of the prayer for relief  
24 that they included within their complaint.

25              So inasmuch as my opposing counsel feigns this

1 trauma that he endured in trying to communicate with me, he  
2 has articulated that at least one person in his office  
3 refuses to talk to me because she's concerned about a threat  
4 of Rule 11. I will acknowledge that I did mention Rule 11  
5 because of something that opposing counsel had articulated to  
6 me that she intended to do in the face of Rule 11. Which  
7 would be something that I would brief at a later point in  
8 time if it was necessary.

9           However, that doesn't excuse an attorney who is of  
10 record in this case of willingly, knowingly, intentionally  
11 refusing to talk with opposing counsel so that it frustrates  
12 my ability to get to the point that I can actually have a  
13 conference with them under Rule 37. And the local rules  
14 command and require that I have a conference, meaning a  
15 discussion, and if they want to continue to frustrate that,  
16 that's certainly their choice.

17           I've drafted a motion, which I didn't submit today  
18 because I wanted to give opposing counsel some time to  
19 respond to that, but it seems to me that his comments are  
20 disingenuous.

21           I would like to move the case forward. I would  
22 like to get this done. I've tendered to my opposing counsel  
23 affidavits from every single employee of the company that  
24 show that they have been paid all the things that they allege  
25 in their complaint that is within the respect of the

1     allegations that there is this scheme and artifice to defraud  
2     the employees. So he's got these in his hand. I've given  
3     him those documents, I've given him everything that he asked  
4     me for.

5             So I don't think that it's necessarily accurate for  
6     my opposing counsel to suggest to the Court that I'm not  
7     trying to communicate with him and I'm not trying to  
8     communicate with them professionally.

9             MR. CAFFARELLI: See, Judge, this is what I'm  
10    talking about. Counsel just made a representation that I  
11    never contacted him regarding the joint status report which  
12    the Court said was due earlier this month. And I have emails  
13    here that I sent on January 19th and January 21st that I'm  
14    happy to show the Court.

15            Again, if I were a judge, I would be furious with  
16    this whole situation. And you rightfully may be furious with  
17    this whole situation. But again, it's the little  
18    misrepresentations that I never contacted him regarding the  
19    joint status report, which are demonstratively false.

20            Like I said, I'm happy to move forward with the  
21    case, but not if I keep getting this, you know, these  
22    statements that I never contacted him when I contacted him  
23    and I have the emails to prove it.

24            THE COURT: Here's what I'm going to do. I am  
25    going to grant leave to file the answer instantler. The

1 answer will be docketed. I'll enter the discovery schedule  
2 that was proposed in the status report, with initial  
3 disclosures due February 5th, fact discovery completed by  
4 June 30th, and dispositive motions filed by August 15th.

5 I will entertain a request for sanctions or costs  
6 and fees associated with having to file the renewed motion  
7 for default based on the failure. That doesn't mean I'm  
8 going to grant it. I'll going to give you an opportunity to  
9 respond, Mr. Hanlon.

10 But that seems to me the best way to deal with this  
11 situation, because it sounds like most of the problems don't  
12 stem from the situation with the answer and the late filing,  
13 the missed deadlines; it sounds like there is a greater issue  
14 here that probably deserves a different approach.

15 Obviously the parties have to be able to work  
16 together, you have to take each other's calls, you have to  
17 respond to the emails. You should be able to have a  
18 professional relationship even if you couldn't stand each  
19 other personally. And I'm not saying that's the case, but --

20 MR. HANLON: I don't even know the man, Judge.  
21 This is the first time I've met him and the first time I've  
22 actually talked with him.

23 MR. CAFFARELLI: Judge, I'm not going to file a  
24 sanctions motion. I think there is a special --

25 THE COURT: If you want to make a request for costs

1 I would entertain that as well.

2 MR. CAFFARELLI: No, no, no, no. I think there is  
3 a special little place in hell for lawyers who try to  
4 sanction other lawyers. We should really try to work it out.

5 Again, it's not my style to do that. I don't want  
6 to sanction anybody. I just want to move forward with this  
7 case, and I would like the misrepresentations -- or the  
8 representations to be accurate, and I would like the  
9 communications to be clear. Just because my associate won't  
10 talk to Mr. Hanlon doesn't mean I won't talk to Mr. Hanlon.  
11 I'm happy to talk to Mr. Hanlon any time. But in light of  
12 the -- either misunderstandings, if you want to call them  
13 that, or misrepresentations, I would prefer that we put  
14 things in writing where we could, because it seems like if  
15 it's verbal it either never happened, or something was said  
16 that was never said, or vice versa.

17 So I'm not going to file a motion for sanctions. I  
18 just want the record to be clear, though, if for some reason  
19 in the future the tipping point is reached, we'll reserve  
20 that option at that time, but at this point this is -- like I  
21 said, this is a minor wage case against a hotdog stand. This  
22 is not a major securities class action. I just want to move  
23 forward and resolve this case in any way, shape, or form.

24 THE COURT: We'll move forward with it. Obviously  
25 it's your decision whether you want to seek any additional

1 relief in the terms of costs or --

2 MR. CAFFARELLI: Understood.

3 THE COURT: -- whatnot, whatever you decide to do  
4 we'll follow up on. In the meantime I expect the parties to  
5 cooperate in discovery, I expect you to work together to try  
6 to get this case resolved either through settlement, or  
7 motion practice, or trial. It's going to have to move  
8 forward to get to one of those points.

9 Here's what I'm going to do. The fact discovery  
10 deadline has just been set for June 30th. I may have the  
11 parties back a little sooner than I would normally just to  
12 make sure that things are moving forward.

13 Enjoli, can we get a status date in about six  
14 weeks?

15 THE CLERK: We can do March 10th.

16 THE COURT: So March 10th at 9:00 a.m. Obviously  
17 initial disclosures will need to be made by then. I think  
18 there are amended initial disclosures that need to be made.

19 MR. CAFFARELLI: Correct.

20 THE COURT: I would hope that the parties will have  
21 started serving any written or document discovery that you're  
22 going to serve, talked about depositions, whatever; I would  
23 like to hear that some progress has been made when you come  
24 back, and hopefully there won't be any more disputes that  
25 come up.

1 But everybody should be on notice that if you do  
2 need more time to do something, or if there is a problem with  
3 a filing, or anything like that, the first thing that I  
4 expect counsel to do is reach out to the other side and try  
5 to reach some sort of agreement on how to get the problem  
6 fixed and keep things moving forward. So if somebody needs  
7 an extension, I expect you to first ask the person on the  
8 other side, and the person on the other side to be  
9 reasonable. They don't have to agree to any kind of crazy  
10 amount of extension, that doesn't work either, but I expect  
11 both sides to be professional and extend professional  
12 courtesies. If you're not able to do those things, I'm sure  
13 there will be motions that are filed, and I'll make those  
14 decisions for the parties.

15 MR. HANLON: Judge, with respect to the class  
16 certification under Rule 23, the claims that are set forth  
17 within the first amended complaint, the rule says that that  
18 motion for class certification ought to be filed as soon as  
19 practical in a case. I'm prepared to defend any Rule 23  
20 motion at any point in time my opposing counsel seeks to  
21 serve, because I don't believe that he can meet any of the  
22 numerosity requirements or the other requirements. That's  
23 separate and apart and distinct from what he frames as his  
24 Fair Labor Standards Act class. And it seems to me that  
25 since he's advanced a class action here I should be able to

1 have some basis by which he thinks that he has a basis to  
2 have a class action in this particular case supported by some  
3 fact as opposed to just simple allegations by the plaintiff.

4 THE COURT: Well, it may be that the plaintiff  
5 requires some discovery in order to be in a position to file  
6 a motion for class certification. Is that what's going on?

7 MR. CAFFARELLI: Actually, Judge, I don't believe  
8 this is a Rule 23 class. We don't have enough people to do  
9 that. This is an opt-in Fair Labor Standards Act class. So  
10 once we have an answer on file we intend to file probably  
11 within the next few weeks a motion to send notice to the  
12 putative -- I would rather call it collective rather than  
13 class action, because that's what it is. So yeah, we'll be  
14 filing that motion shortly, and we can address that at the  
15 time.

16 THE COURT: If you're prepared to do it, it doesn't  
17 sound like there is going to be a Rule 23 motion that will be  
18 filed --

19 MR. CAFFARELLI: Correct.

20 THE COURT: -- so I'll look forward to getting the  
21 papers.

22 MR. HANLON: So we're clear, my opposing counsel is  
23 saying that there is no Rule 23 class that he's advancing in  
24 this lawsuit?

25 And the reason I'm asking the question, your Honor,

1 is I read the complaint as a portion of his claims can sound  
2 only in a Rule 23 class action.

3 MR. CAFFARELLI: I don't believe we filed this as a  
4 hybrid. I believe we filed it as a collective under 216(b).  
5 Let's see.

6 THE COURT: Well, either way, if there is no motion  
7 filed --

8 MR. HANLON: Paragraph 33 of the complaint, Judge,  
9 says this action is brought as a class action under Federal  
10 Rule of Civil Procedure 23.

11 MR. CAFFARELLI: First amended complaint.

12 THE COURT: I'm sorry. Which paragraph did you  
13 reference?

14 MR. HANLON: Paragraph 33, page 8 of the first  
15 amended complaint says: "This action is brought as a class  
16 action under Federal Rule Civil Procedure 23."

17 THE COURT: It does say that.

18 MR. CAFFARELLI: Okay. Yeah, it was filed as a  
19 hybrid 216(b), but we don't intend to file -- if we go that  
20 route if the numerosity is there, which I guess we'll  
21 discover through the course of discovery -- we'll discover  
22 through the Rule 216(b) motion to send notice, I'm not going  
23 to file the Rule 23 motion until -- it wouldn't be filed  
24 until the very end.

25 And I don't even know that I would file in a case

1 like this, because if it's Rule 23, it's a borderline Rule  
2 23. I just don't even see why we're talking about this now.

3 THE COURT: Well, it's in your complaint. I don't  
4 think we need to talk about it any further today either. And  
5 here's the thing: It is not unusual for the plaintiff to  
6 require some discovery in order to be in a position to file  
7 and to brief class certification. So I'm not going to  
8 penalize the plaintiff at this point for having an allegation  
9 in the complaint and having not yet filed a motion,  
10 especially given that there hasn't been an answer on file  
11 until today.

12 So we'll address that, and when the time comes  
13 we'll deal with it, I'll look for a motion to send notice to  
14 potential members of the class for collective action  
15 purposes, and I'll see the parties again on March 10th.

16 MR. HANLON: Judge, just as a point of  
17 clarification with respect to your order, the answer, do you  
18 want me to file it as a separate document today, or is the  
19 Court just going to accept the exhibit that was attached to  
20 the complaint as exhibit -- or the motion as Exhibit B?

21 THE COURT: Let me take a look at this.

22 I'm going to ask you to file it separately. Docket  
23 it within 24 hours. I'm doing that in part because the  
24 version that's attached is actually not signed, so I'll need  
25 a signed version. And separately file that within the next

1 24 hours.

2 MR. HANLON: Yes, your Honor.

3 THE COURT: Okay?

4 MR. CAFFARELLI: Thank you.

5 THE COURT: Thank you.

6 (End of proceedings.)

7 C E R T I F I C A T E

8

9 I certify that the foregoing is a correct transcript  
10 from the record of proceedings in the above-entitled case on  
11 January 28, 2016.

12

13

14

15 /s/Colette M. Kuemmeth  
16 Court Reporter

17

18

19

20

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22

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24

25

# Exhibit G

## Supplemental Disclosures

Thu, Jan 28, 2016 at 10:47 AM

 Alejandro Caffarelli  
www.caffarelli.com

# Exhibit H



Alejandro Caffarelli &lt;acaffarelli@caffarelli.com&gt;

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## Vargas Deposition

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**Alejandro Caffarelli** <acaffarelli@caffarelli.com>

Tue, Feb 2, 2016 at 10:55 AM

To: "rob@rhanlonlaw.com" &lt;rob@rhanlonlaw.com&gt;, cheryl@rhanlonlaw.com

Cc: Joanna Germann &lt;jgermann@caffarelli.com&gt;

Counsel - We contacted our client after receiving your notice of deposition for Mr. Vargas last friday. Unfortunately, he cannot take Friday off of work on such short notice. In the future, I would appreciate it if you could please extend me the professional courtesy of calling or sending me an e-mail **prior** to scheduling depositions, so that we can determine a time and date that works for everyone -- particularly in light of the courtesy we extended your client early in this case by agreeing to months-long requests for extensions. In addition, one weeks' notice is not "reasonable," pursuant to Rule 30(b)(1). Mr. Vargas does not work on Thursdays, so he is available on the 11th, 25th, or March 3. Please pick one of those days and send me an amended notice. You seem to have a pattern of ignoring my e-mails, so we are also sending this to you via fax. Thank you in advance for your anticipated cooperation.

Alejandro Caffarelli  
www.caffarelli.com

# Exhibit I



Alexis Martin &lt;amartin@caffarelli.com&gt;

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## LR37.2 and Scheduling 26(f) Conference

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**Robert Hanlon** <Rob@rhanlonlaw.com>  
To: Alexis Martin <amartin@caffarelli.com>

Tue, Feb 10, 2015 at 12:02 AM

Ms. Martin:

Unless and until I propound discovery in this case, your objections are misplaced. However, your problems with this case are far more significant than that articulated in your "37.2 letter". Although, I object to the characterization as a 37.2 letter because there cannot be a discovery dispute until discovery commences. Thus, I will afford your communication the weight of an anticipatory objection. Nevertheless, at the time that I propound discovery I will raise all issues including those related to the good faith extension or modification of existing law. You can then raise your objections. Perhaps the long standing NLRB cases that were recently reversed were done so because of the high court's position on the legitimacy of raising the illegal status issue. Well I don't know what Mr. Poper raised with you as to what you call "undocumented" status or I call "Illegal", it is an issue that will raise its head at an appropriate time. Additionally, you should be apprised that several individuals articulated that Mr. Vargas' circumstances of his departure clearly separate him from the rest of the employees.

I trust that you should have my Rule 11 Safe harbor letter before the end of the week. We can address discovery if and when you have a complaint that the court allows to stand. If not stricken, your client will have to disclose what his purported claim is and the basis for his claim. As referenced in my reply brief, the proverbial "pea hidden in the mattresses" is always discovered.

I do not understand why you think it tactically advantageous to play games re damages and the like. Nevertheless, although I was born, I was not born yesterday. You will receive all of the discovery that I intend to propound at the time I intend to propound it.

Robert T. Hanlon

131 East Calhoun

Woodstock, Illinois 60098

**From:** Alexis Martin [mailto:[amartin@caffarelli.com](mailto:amartin@caffarelli.com)]

**Sent:** Thursday, January 22, 2015 5:41 PM

**To:** Robert Hanlon

**Subject:** LR37.2 and Scheduling 26(f) Conference

[Quoted text hidden]

# Exhibit

# J

**2/19/15 Voicemail from R. Hanlon**  
**Exhibit will be filed with Court in-person**

# **Exhibit K**



Alexis Martin &lt;amartin@caffarelli.com&gt;

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## Vargas Matter

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**Alejandro Caffarelli** <acaffarelli@caffarelli.com>

Fri, Feb 20, 2015 at 9:21 AM

To: "rob@rhanlonlaw.com" &lt;rob@rhanlonlaw.com&gt;

Cc: "mcplaw@sbcglobal.net" &lt;mcplaw@sbcglobal.net&gt;, Alexis Martin &lt;amartin@caffarelli.com&gt;

Hello Mr. Hanlon: Yesterday afternoon we received a voicemail from you, and I understand that you spoke with Alexis. I am concerned about the tone that you have taken in this litigation, as I previously had what I thought was a good and cordial relationship with Mr. Poper. I question the purpose behind your repeated threats to file a motion for sanctions without any such motion or safe harbor letter being sent, your baseless accusation that our firm is attempting to suborn perjury, and your threat to contact the criminal authorities, presumably to gain advantage in a civil matter. I understand that your client is angry about being named a defendant in a lawsuit, but I ask that as a professional you rise above the vitriol so that we can each do our respective jobs without the unnecessary drama. I can assure you that whatever the motive, your client's recent actions, as well as your threats to introduce the immigration issue into this litigation, has only increased our respective fees and hardened my client's conviction (and ours) to aggressively pursue this matter. At the end of the day, this is a simple wage case where your client failed to pay overtime, which is not that uncommon in the restaurant industry. If your client would like to put an end to this and discuss a negotiated a resolution, please let me know and we will make a demand. Otherwise, please understand that we are undeterred and that as this litigation progresses and we are required to invest additional time and energy, our fees (for which your client would ultimately be responsible should we prevail) will inevitably continue to increase.

Alejandro Caffarelli | iPhone

# Exhibit L

**02/20/15 Voicemail from R. Hanlon**  
**Exhibit will be filed with Court in-person**

# Exhibit M



Joanna Germann &lt;jgermann@caffarelli.com&gt;

## Activity in Case 1:14-cv-07144 Vargas v. Tommy's Redhots, Inc. et al motion for default judgment

1 message

usdc\_ecf\_ilnd@ilnd.uscourts.gov <usdc\_ecf\_ilnd@ilnd.uscourts.gov>  
To: ecfmail\_ilnd@ilnd.uscourts.gov

Fri, Jan 15, 2016 at 3:58 PM

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

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United States District Court

Northern District of Illinois - CM/ECF LIVE, Ver 6,1

### Notice of Electronic Filing

The following transaction was entered by Caffarelli, Alejandro on 1/15/2016 at 3:58 PM CST and filed on 1/15/2016

**Case Name:** Vargas v. Tommy's Redhots, Inc. et al  
**Case Number:** [1:14-cv-07144](#)  
**Filer:** Rene Vargas  
**Document Number:** [37](#)

#### Docket Text:

**[MOTION by Plaintiff Rene Vargas for default judgment as to all defendants \(Renewed Motion\) \(Attachments: # \(1\) Exhibit 1-3\)\(Caffarelli, Alejandro\)](#)**

#### 1:14-cv-07144 Notice has been electronically mailed to:

Alejandro Caffarelli &nbsp; &nbsp; [acaffarelli@caffarelli.com](mailto:acaffarelli@caffarelli.com), [jgermann@caffarelli.com](mailto:jgermann@caffarelli.com)

Alexis D Martin &nbsp; &nbsp; [amartin@caffarelli.com](mailto:amartin@caffarelli.com), [jgermann@caffarelli.com](mailto:jgermann@caffarelli.com)

Robert Thomas Hanlon &nbsp; &nbsp; [rob@rhanlonlaw.com](mailto:rob@rhanlonlaw.com), [cheryl@rhanlonlaw.com](mailto:cheryl@rhanlonlaw.com)

#### 1:14-cv-07144 Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1040059490 [Date=1/15/2016] [FileNumber=15489791-0] [66dca2872c354713ae52205b0a9834390da28a835ea8a87351382bef7f4683a5e53586a14888e3225e9e76255e8e761d1ee06272f0288ac3285c0330bb80ea5d]]

**Document description:**Exhibit 1-3

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1040059490 [Date=1/15/2016] [FileNumber=15489791-1] [9909d930d1a24a3a30a8a6d4c433ecfcd17896e4ebb92a486f9aab109647cac0d4a71ec30c526dfd999088eeeb762fe57d16a461c4278c69fa44dae0e26de92d]]

# Exhibit

# N

**01/15/16 Voicemail from R. Hanlon**  
**Exhibit will be filed with Court in-person**

# Exhibit O



Alejandro Caffarelli &lt;acaffarelli@caffarelli.com&gt;

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## Vargas v Tommy's Red Hots

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**Alejandro Caffarelli** <acaffarelli@caffarelli.com>  
To: "rob@rhanlonlaw.com" <rob@rhanlonlaw.com>  
Bcc: Alexis Martin <amartin@caffarelli.com>

Fri, Jan 15, 2016 at 4:45 PM

We received your voicemail and in light of the totality of the circumstances (including your past conduct in this matter, extreme, unprovoked hostility and unfounded allegations of misconduct levied against my associate, and prejudice that my client continues to suffer given the extremely long period of time that this case has been pending) cannot agree.



Alejandro Caffarelli  
[www.caffarelli.com](http://www.caffarelli.com)

# **Exhibit**

# **P**



Joanna Germann &lt;jgermann@caffarelli.com&gt;

**Activity in Case 1:14-cv-07144 Vargas v. Tommy's Redhots, Inc. et al motion to file instanter**

1 message

usdc\_ecf\_ilnd@ilnd.uscourts.gov <usdc\_ecf\_ilnd@ilnd.uscourts.gov>  
To: ecfmail\_ilnd@ilnd.uscourts.gov

Fri, Jan 15, 2016 at 4:55 PM

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

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United States District Court

Northern District of Illinois - CM/ECF LIVE, Ver 6,1

**Notice of Electronic Filing**

The following transaction was entered by Hanlon, Robert on 1/15/2016 at 4:55 PM CST and filed on 1/15/2016

**Case Name:** Vargas v. Tommy's Redhots, Inc. et al**Case Number:** [1:14-cv-07144](#)**Filer:** Donny Grieco  
Thomas Grieco  
Tommy's Redhots, Inc.  
Tommy's/Lake in the Hills, Ltd.  
Tommy's/McHenry, Ltd.**Document Number:** [39](#)**Docket Text:**

**[MOTION by Defendants Donny Grieco, Thomas Grieco, Tommy's Redhots, Inc., Tommy's/Lake in the Hills, Ltd., Tommy's/McHenry, Ltd. to file instanter Answer to First Amended Complaint \(Hanlon, Robert\)](#)**

**1:14-cv-07144 Notice has been electronically mailed to:**Alejandro Caffarelli &nbsp; &nbsp; [acaffarelli@caffarelli.com](#), [jgermann@caffarelli.com](#)Alexis D Martin &nbsp; &nbsp; [amartin@caffarelli.com](#), [jgermann@caffarelli.com](#)Robert Thomas Hanlon &nbsp; &nbsp; [rob@rhanlonlaw.com](#), [cheryl@rhanlonlaw.com](#)**1:14-cv-07144 Notice has been delivered by other means to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document**Original filename:**n/a**Electronic document Stamp:**

2/3/2016

Case: 1:14-cv-07144 Document #: 50-1 Filed: 02/03/16 Page 64 of 64 PageID #:490

Caffarelli & Associates Ltd. Mail Activity in Case 1:14-cv-07144 Vargis / Tonino's Red Sox, Inc. et al Motion to Dismiss

[STAMP dcecfStamp\_ID=1040059490 [Date=1/15/2016] [FileNumber=15490720-0] [6383112acd621c5f9efcae0fa04d4032a4ddafafe04afa1cb565bacd3fc07efc5159f172a1cdb3b5f19e7d382484a5f06de46952e59853139f0d464c6a63286b]]