

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

**DARVETTE SMITH, NATALIE)
HODOROVYCH, ERIN BOX, and)
BLAKE BREZINSKY, individually, and)
on behalf of all others similarly situated,)**

Plaintiffs,)

v.)

FAMILY VIDEO MOVIE CLUB, INC.,)

Defendant.)

Case No. 11 CV 1773

Judge John Z. Lee

ORDER

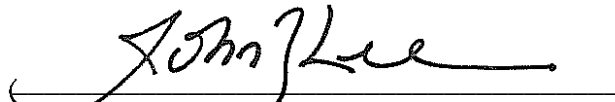
Defendant’s motion to dismiss Plaintiffs’ Illinois Minimum Wage Law (“IMWL”) claims for lack of subject matter jurisdiction [222] is denied. Defendant argues that Plaintiffs’ IMWL claim should be dismissed because “the significant disparity between the numbers of putative IMWL plaintiffs versus FLSA plaintiffs demonstrates that Plaintiffs’ state law claim substantially predominates.” Since Defendant filed its motion to dismiss, however, the Court has denied Plaintiffs’ motion to certify an IMWL class. Therefore, the only IMWL claims that remain are those of named Plaintiffs Horodovych and Box. The IMWL claims of these two Plaintiffs do not overwhelm the FLSA claims of the more than 100 individuals who have opted-in to the FLSA action.

Defendant also argues that Plaintiffs’ IMWL claims should be dismissed because Plaintiffs’ IMWL claims “rest[] on complex issues of state law that do not coincide with the FLSA.” (Def.’s Mot. Dismiss 3.) The Seventh Circuit has recognized, however, that although the FLSA and IMWL differ, plaintiffs’ claims under the two statutes can be “closely related” and, therefore, jointly litigated. *See Ervin v. OS Ret. Servs., Inc.*, 632 F.3d 971 (7th Cir. 2011). Here,

Plaintiffs IMWL and FLSA claims are closely related. Thus, Defendant's motion to dismiss Plaintiffs' IMWL claims for lack of subject matter jurisdiction [222] is denied.

SO ORDERED

ENTER: 4/15/13



JOHN Z. LEE
U.S. District Judge