



## **Morse et al v. Alpine Access, Inc. et al**

2017 | Cited 0 times | N.D. New York | November 9, 2017

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK CAROL MORSE,  
BECKY NELLOS, SANDY MOROWITZ, and other similarly-situated individuals,

Plaintiffs, -against- ALPINE ACCESS, INC., and SYKES ENTERPRISES, INC., Jointly and Severally  
as,

Defendants.

Index No. 5:17-CV-235[BKS/ATB] [PROPOSED] ORDER DISMISSING WITH PREJUDICE OPT-IN  
PLAINTIFF LACURYA BODY'S CLAIMS UNDER THE FAIR LABOR STANDARDS ACT

WHEREAS, on August 29, 2017, Magistrate Judge Andrew T. Baxter so-ordered the Parties'  
Stipulation Regarding Protocol for Dismissal of Plaintiffs with Prejudice for Failure to Respond to  
Discovery ("Dismissal Protocol") (DKT 52); and,

WHEREAS, on March 3, 2017, Opt-in Plaintiff LaCurya Body ("Plaintiff Body") filed with the Court a  
Consent to Join this Fair Labor Standards Act ("FLSA") case (DKT 6-1); and,

WHEREAS, on July 3, 2017, Defendants served upon Plaintiff Body requests for written discovery,  
including Defendants' Requests for the Production of Documents and Defendants' First Set of  
Interrogatories, which responses and objections were due on or before August 2, 2017; and,

WHEREAS, Plaintiff Body failed to respond to Defendants' requests for written discovery on or  
before August 2, 2017; and,

WHEREAS, pursuant to the Dismissal Protocol, Plaintiffs' counsel on September 5, 2017 informed  
Defendants' counsel that Plaintiffs' counsel on September 1, 2017 sent to Plaintiff Body a letter  
informing Plaintiff Body that (1) she failed to respond to Defendants' requests for written discovery;  
(2) she is obligated to engage in discovery as part of her obligations as an opt- in Plaintiff; and (3) she  
has thirty (30) days from the date of such correspondence, or until October 2, 2017, to respond to  
Defendants' requests for written discovery, the failure of which may result in the dismissal with  
prejudice of Plaintiff Body's FLSA claims; and,

WHEREAS, Plaintiff Body has failed to respond or object to Defendants' requests for written  
discovery within thirty (30) days of the date of the correspondence from Plaintiffs' counsel; and,



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WHEREAS, the Parties have not agreed to an extension of Plaintiff Body's time to respond to Defendants' request for written discovery;

IT IS HEREBY ORDERED, that the Fair Labor Standards Act claims of Opt-in Plaintiff LaCurya Body in the above-captioned action be dismissed in their entirety, with prejudice, pursuant to the Parties' agreed-upon Dismissal Protocol (DKT 52), and without costs, disbursements or attorneys' fees to any party. Dated: August 2, 2017

LITTLER MENDELSON, P.C.

By: /s Andrew J. Voss Andrew J. Voss (admitted pro hac vice) 80 South 8th Street Suite 1300  
Minneapolis, MN 55402 612.630.1000 (office) Attorneys for Defendants IT IS SO ORDERED:

\_\_\_\_\_

Dated: \_\_\_\_\_

Syracuse, NY

