Clark, et al. v. QG Printing II, LLC, et al.

2023 | Cited 0 times | E.D. California | April 6, 2023

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

Plaintiff Paul Clark brings suit, on behalf of himself and others similarly situated, against Defendants and , and together in connection with alleged wage-and-hour violations at four commercial printing facilities in California, including claims relating to meal breaks, rest breaks, off-the-clock work and business expenses. In addition to seeking to litigate his claims on a class basis, Plaintiff has alleged a representative claim for civil penalties , California Labor Code §§ 2698, et seq., in connection with

various Labor Code violations alleged this case. Doc. No. 34 ¶¶ 119-217. Defendants have brought a motion to strike or dismiss the representative PAGA claim PAUL CLARK, individually, and on behalf of other members of the general public similarly situated,

Plaintiffs, v. QG PRINTING II, LLC, a Connecticut limited liability company; QUAD/GRAPHICS, INC., a Wisconsin corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 1:18-cv-00899-AWI-EPG ORDER ON MOTION TO STRIKE OR DISMISS PAGA CLAIM

(Doc. No. 87) under Rule 12(f) of the Federal Rules of Civil Procedure 1

and the inherent authority of federal district courts to manage litigation. Doc. No. 87. The motion has been fully briefed and deemed suitable for decision without oral argument pursuant to Local Rule 230(g). Doc. No. 97. For the

after Plaintiff has filed a revised trial plan specifically addressing portions of the PAGA claim that summary judgment and corresponding affirmative defenses.

BACKGROUND QG is a Wisconsin corporation with commercial printing facilities throughout the United States. Doc. No. 49 at 10:4-6. 2

QG Printing is a Connecticut limited liability company and a QG subsidiary. Id. at 10:9-11. QG Printing operates four facilities in California: Merced, West Sacramento, Riverside Jurupa Valley, and Riverside Box Springs. Id. at 10:13-16. Plaintiff was a non-exempt, hourly-paid press assistant in

the press production area at Merced facility. Id. at 10:25-11:2. Plaintiff filed this class action in Merced County Court on May 29, 2018, seeking to represent an overarching class of several hundred non-exempt, hourly employees who worked in facilities in the four-year period prior to the filing of the action. Doc. No. 1. Defendant removed the action to federal court on June 29, 2018, id., and it was assigned to this Court on July 2, 2018. Doc. No. 7. The Second Amen alleges claims for violations of: (i) Labor Code §§ 510 and 1198 (Unpaid Overtime); (ii) Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages); (iii) Labor Code §§ 226.7, 512(a), and 1198 (Failure to Provide Meal Periods); (iv) Labor Code §§ 226.7 and 1198 (Failure to Provide Rest Periods); (v) Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records); (vi) Labor Code §§ 201, 202, and 203

1 2 of each page. (Wages Not Timely Paid Upon Termination); (vii) Labor Code § 2802 (Unreimbursed Business Expenses); (viii) Labor Code §§ 551, 552, and 558 (Failure to Provide One Day of Rest in Seven); (ix) Labor Code §§ 2698, et seq. (Civil Penalties Under PAGA for Violations of Labor Code); (x) California Business & Professions Code §§ 17200, et seq. (Unlawful Business Practices); and (xi) California Business & Professions Code §§ 17200, et seq. (Unfair Business Practices). Doc. No. 34. On November 8, 2019, Plaintiff brought a motion pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, Doc. No. 46, to certify an overarching class comprising approximately 1,200 members, see Doc. No. 54 at 13:20-26, and the following subclasses:

First Meal Break Subclass: Putative class members who worked at least one shift of more

than six hours, in connection with printing facilities in California while imposing strict deadlines which impede and

discourage subclass members from taking, timely uninterrupted and compliant first meal ; Second Meal Break Subclass: Putative class members who worked at least one shift of

more than 12 hours, -wide policy ; Rest Break Subclass: Putative class members who worked at least one shift of more than

3.5 hours, in connection with claims that subclass members were unlawfully deprived of

; Meal Break Waiver Subclass: Putative class members who worked at least one shift

between five and six hours in length or at least one shift between 10 and 12 hours in length, in connection with claims that Defendants use invalid, blanket meal waivers to deprive employees of a first meal break between the fifth and sixth hour of work and to deprive employees of a second meal break between the tenth and twelfth hours of work; Off-the-Clock Work Subclass: Putative class members who arrived to work early, in

connection with claims that Defendants maintained a class-wide policy of requiring employees to determine their assigned workstation by watching a scrolling monitor prior to clocking in for a shift; and Business Expense Subclass: Putative class members who purchased steel-toed boots for

use while working for Defendants, in connection with claims that QG Printing did not provide legally sufficient reimbursement for such purchases. Doc. Nos. 46 and 46-1. In addition, Plaintiff sought to certify a so-called claims pursuant to Labor Code sections 510, 1198, 1194, 1997, 1197.1, 201, 202, 203, 204, and 226, and Business & Professions Code section 17200, et seq. that are derivative of the putative class claim corresponding to the subclasses listed above. Id.

Certification was granted with respect to the Meal Break Waiver Subclass and the Business Expense Subclass, and denied as to the other five subclasses. See generally Doc. No. 54. As to the [regarding] the validity of QG will drive resolution of most if not all claims for the Meal Break Waiver Subclass and that any

individualized inquiries would pertain primarily to damages (based on the number of meal breaks Doc. No. 54 at 24:23-27. As to the Business Expense Subclass, the Court similarly found that

-toed shoes were a reimbursable expense and whether the $50 allowance was sufficient would have significant class- that it appeared -toed boots could Id. at 32:4-7. certification was denied were as follows:

First Meal Break Subclass: The Court found that Plaintiff failed to show that Defendants

by Plaintiff the rate of alleged first meal break violations across -12. Consequently, the Court found that it different roles at different facilities at different points in time during the multi-year period at issue in this case w[ould] be required to determine why a given first meal break was Id. at 20:17-21. Second Meal Break Subclass: The Court found t

12 hours

12 hours, and the declarations provided by Defendants with respect to voluntarily skipping second meal breaks at the end of long shifts, it appears unlikely that Defendants can show at trial that QG Printing had a class-wide policy or practice or prohibiting second meal periods for shifts in excess of 12 hours, and more likely than not that liability determinations in connection with second meal breaks for shifts in excess of 12 hours would focus primarily on whether a given employee was somehow prevented from taking a second meal break or whether that employee voluntarily skipped the second meal break -23:7. Rest Break Subclass:

convincingly corro -wide practice of discouraging breaks by understaffing heavy workloads, particularly given the apparent

-16. Further, the Court -wide policy prohibiting employees from leaving facilities at rest breaks (and that such a policy was unlawful), trial would still involve not only the individualized work of determining the extent to which this policy harmed individual employees, but also the individualized work required to decide claims involving breaks that were compromised for reasons unrelated to - Id. at 27:20-26. Off-the-Clock Work Subclass showing that Defendants had a policy or practice of requiring employees to work off-the-

-the-clock work claims would focus largely on individualized inquiries regarding the extent to which a given employee was improperly required or suffered to engage in other conduct such as taking safety courses, communicating with co-workers,

at 30:2-8. Derivative Claims Subclass:

Sections 510, 1198, 1194, 1197, 1197.1, 201, 202, 203, 204, and 226 of the Labor Code 54 at 32:11-13. The Court state Court to find, in one fell swoop, that 11 separate claims are suitable for certification based

derivative Id. at

32:19-23. Similarly show a predominant question of law or fact across all derivative claims. Id. at 32:24-33:3.

DEFENDANTS MOTION of Action in the SAC, Doc. No. 34 ¶¶ 119-127, and references Ninth Cause of Action

and PAGA penalties elsewhere in the SAC. Doc. No. 87 at 2:3-19.

Defendants argue that Plaintiff PAGA claim inherent authority to control litigation because ues

-22. Defendants contend that the PAGA cause of action [s] those wage and hour claims for which Plaintiff sought (and was for the most part denied) and that the reasoning the Court applied in denying certification for all but two claims precludes litigating the PAGA cause of action on a representative basis. Doc. No. 87-1 at 7:2-7. // Plaintiff argues that Defendants motion is untimely to the extent it is brought under Rule 12(f) because Rule 12(f) provides that motions to strike may only be brought responding to the pleading or, if a response is not allowed, within 21 days after being served with

the p -10 (quoting Rule 12(f)(2)) (internal quotation marks omitted). that, in any event, its PAGA cause of action is not unmanageable given the nature of the determinations required. Id. at 7:25-8:4.

Defendants contend that their motion to strike is timely because it goes to manageability issues that

emerged, for the first time, in the class certification order and was not brought . Doc. No. 95 at 7:6-14. Further, Defendants contend that the motion is timely under 12(f) because s to avoid the expenditures of time and money that must arise from litigating spurious issues by dispensing Doc. No. 95 at 7:15-8:6 (quoted source and internal quotation marks omitted). Defendants concede that there the manageability requirement for class actions under Rule 23(b)(3) but argue that federal courts inherent authority to manage their dockets, separate and apart from class action 95 at 8:8-12. e is nothing in PAGA itself Id. at 9:3-4. Defendants also argue that their motion is based on their -established due process right to see and contest evidence of a violation as to each Id. at 9:15-24 (emphasis original). According to Defendants, allowing Plaintiff to proceed with his PAGA cause of action would infringe this right because y cognizable trial plan or demonstrate how he intends to establish that over 1,000 employees are aggrieved (actually injured) when the evidence shows that there is no unlawful policy or practice and each member of the PAGA class would be required to testif Id. at 2:27-28.

LEGAL FRAMEWORK A. PAGA the Labor and Workforce Development Agency (LWDA) and its constituent departments and divisions are authorized to assess and collect civil penalties for specified viol Raines v. Coastal Pacific Food Distributors, Inc., 23 Cal.App.5th 667, 673 (2018) (quoted source

and internal quotation marks omitted). In 2003, citing inadequate funding for enforcement of labor laws, the California civil penalties on behalf of the state against his or her employer for Labor Code violations committed against the employee and fellow employees, with most of the proceeds of that litigation Iskanian v. CLS Transportation Los Angeles, LLC, 59 Cal.4th 348, 360 (2014). T Id. at 384 (quoted source and internal quotation marks omitted). Consequently, a PAGA action may cover a large number of employees. Wesson v. Staples the Off. Superstore, LLC, 68 Cal.App.5th 746, 765 66 (2021), (Sept. 27, 2021), review denied (Dec. 22, 2021); see also Cal. Labor Code § 2699(a) (under PAGA, an

B. Manageability of PAGA Causes of Action The Court agrees with Defendants that the timing of this motion does not preclude the Court from granting the relief sought to the extent the Court otherwise has the power to do so. See Martinez-Sanchez v. Anthony Vineyards, Inc., 2021 WL 5769471, *3 (E.D. Cal. Dec. 6, 2021) (der Rule 12(f), but

. The threshold legal question on this motion, therefore, has to do with the extent (if any) to which the Court has the power to bar or limit cause of action. There appear to be three key cases addressing that question: Wesson v. Staples the Office Superstore; Estrada v. Royalty Carpet Mills, Inc.; and Hamilton v. Wal-Mart Stores, Inc. The Court will review each of these cases, in turn, and then consider their collective implications for this action. 1. Wesson v. Staples the Office Superstore, LLC In Wesson, plaintiff Fred Wesson brought a PAGA claim against Staples (the office supply retailer) on behalf of 345 general managers of Staples stores in California, alleging that Staples violated the Labor Code by misclassifying general managers as exempt executives. 68 Cal.App.5th at 755. Staples

moved to strike the PAGA claim, arguing that and that litigating it would violate due process because intended affirmative defense (that general managers were properly classified) required individualized proof as to each general manager. Plaintiff contended, in relevant part, that the trial court lacked authority to impose a manageability requirement on PAGA claims and that Staples had no due process right to present individualized evidence in support of its affirmative defense. Wesson, 68 Cal.App.5th at 755-57.

The California Court of Appeal for the Second District ruled in favor of Staples, finding: (i) courts have inherent authority to ensure that PAGA claims can be fairly and efficiently tried and, if necessary, may strike claims that cannot be rendered manageable as a matter of due process, defendants are entitled to a fair opportunity to litigate available affirmative defenses. Wesson, 68 Cal.App.5th at 756. The court further stated, however, that and that, if possible, the trial should work with the parties to render a PAGA claim manageable by adopting a feasible trial plan or limiting the claim s scope. Id. at 770 71 (quoted and cited sources omitted). 2. Estrada v. Royalty Carpet Mills, Inc. In Estrada, plaintiffs were employees at carpet manufacturing facilities operated by 76 Cal.App.5th 685 (2022). They alleged class action claims and a PAGA claim based primarily on purported meal and rest period violations. Id. at 696. The trial court decertified the meal break subclass and dismissed the meal break portion of the PAGA claim on the g Estrada, 76 Cal.App.5th at 709-10. Plaintiffs appealed, arguing that PAGA claims have no manageability requirement. Id. at 709. The California Court of Appeal for the Fourth District agreed with plaintiffs, finding that dismissal of PAGA claims based on manageability graft a class action and interfere with PAGA s purpose as a law enforcement Estrada, 76 Cal.App.5th at 697, 712. The court also acknowledged, however, involve hundreds or thousands of alleged aggrieved employees, each with unique factual

circumstances, and that courts may, in such cases, limit witness testimony and other forms of evidence when determining the number of violations that occurred and the amount of penalties to Id. at 713. Such an yees do not own a personal claim for PAGA civil penalties Id. at 713 If a

plaintiff alleges widespread violations of the Labor Code by an employer in a PAGA action but cannot prove them in an efficient manner, it does not seem unreasonable for the punishment . 3. Hamilton v. Wal-Mart Stores, Inc. 3 The Ninth Circuit addressed the question of whether PAGA claims are subject to a manageability requirement in Hamilton, a few months after the Estrada decision was issued. 39 F.4th 575 (9th Cir. 2022). In Hamilton, plaintiff brought class claims and a PAGA claim against Walmart for wage- and-hour violations. Hamilton, 39 F.4th at 580. Id. at 582. The

Ninth Circuit reversed, finding that the Rule 23(b)(3) manageability requirement imposed in PAGA actio not represent a reasonable solution to a

3 The Court takes note of and appreciates defense counsel citation to and discussion of contrary authority. See, e.g., Doc. No. 87-1 at 11:7-10 & 12:21-22; Doc. No. 95 at 6:2-20. specific problem. Id. at 590 (citation and internal quotation marks omitted); see also id. at 587 requirement in PAGA cases

akin to that imposed under Rule 23(b)(3) would not constitute a

reasonable response to a specific problem and would contradict California law by running afoul of

DISCUSSION Hamilton establishes that district courts in California cannot impose a threshold manageability requirement 23(b)(3) See Hamilton, 39 F.4th at 587. Hamilton also indirectly affirms, however, that district courts have inherent authority to regulate PAGA claims to the extent doing so

See Hamilton, 39 F.4th at 587. Wesson and Estrada, similarly, both recognize that thority to manage litigation can be exercised without offending PAGA. See Wesson, 68 Cal.App.5th at 770-71; Estrada, 76 Cal.App.5th at 713. Here, Plaintiff filed a trial plan before the Court issued its order on his motion for class certification. Doc. No. 46-3. and practices violate California law many of the causes of action by a motion for summary

Doc. No. 46-3 at 3:15-19; see also id. at 3:10- liability is established for the certified claims, determining derivative PAGA penalties will be a

simple matter of multiplying the number of violations by the penalties set forth in the statute, with no further discussion of how the PAGA claim and its many component parts might be litigated. Doc. No. 46-3 at 2 n.2. As set forth above, the Court later denied class certification for five of proposed subclasses on the grounds that Plaintiff had failed to show that the underlying violations were due to uniform policies or practices and that, consequently, hundreds of mini-trials could be required for each proposed subclass. See generally Doc. No. 54. here is that Plaintiff has not demonstrated that there is a feasible way to try the various aspects of its multi- dimensional PAGA claim without compr and placing undue burdens on the Court, Defendants and the jury. As noted above, the California Court of Appeal recognized in Estrada that involve hundreds or thousands of alleged aggrieved employees, each with unique factual

circumstances Estrada, 76 Cal.App.5th at 713, and that under limit witness testimony and other forms of evidence when determining the number of violations that occurred and the amount of penalties to assess. Id.; see also Wesson, 68 Cal.App.5th at 771 (engineer[] solutions to difficult problems of case management work with [] parties to render a PAGA claim manageable by adopting a feasible trial plan or limiting the claim s scope Further, the Estrada court directed and [trial] court to discuss whether the pool of alleged aggrieved employees should be narrowed or

to determine whether additional evidence [was] necessary to determine the extent of the Labor Estrada, 76 Cal.App.5th at 714. plaintiffs are unable to show widespread violations affecting unrepresented employees in a reasonable manner, Estrada court the [trial] court shall award penalties to the aggrieved employees to the extent of plaintiffs proof Id. aimed at ensuring Plaintiff makes a prima facie showing (and that Defendants have a constitutionally adequate opportunity to raise a defense) as to each alleged Labor Code violation for which Plaintiff may seek a civil penalty is

warranted here. Cf. Hibbs-Rines v. Seagate Techs., LLC, 2009 WL 513496, *4 (N.D. Cal. Mar. 2, 2009) f will have to prove Labor Code violations with respect to each and every individual on see also Cardenas v. McLane Foodservice, Inc. plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the

The Court will therefore order Plaintiff to file a revised trial plan (after substantial, good- faith consultation with Defendants) to the extent he intends to pursue his PAGA claim. Cf. Hinds v. FedEx Ground Package Sys., Inc., 2022 WL 1212016, at *1-*2 (N.D. Cal. Apr. 25, 2022) (ordering Plaintiff to offer a trial plan before making a ruling on a motion to strike a PAGA claim); Ortiz v. Amazon.com LLC, 2020 WL 5232592, at *2 (N.D. Cal. Sept. 2, 2020) (similar). Any trial plan filed with this Court must order on certification, Doc. No. 54, relevant aspects of this order, order on It must also include a declaration by rts as to the trial plan and account for the presentation of evidence in connection with both case and . Defendants will then be permitted to bring a motion

regarding the trial plan based on case management authority, provided that (or at least attempted to do so) regarding the trial plan in good faith and that Defendants believe, in good faith, that such a motion is warranted by the facts of this case and applicable law. Similarly, Defendants may renew this motion in the event Plaintiff fails to comply with this order.

CONCLUSION For the foregoing reasons, Defe 87, will be denied without prejudice to filing a motion consistent with this order after Plaintiff files a revised trial plan or fails to do so.

ORDER Accordingly, IT IS HEREBY ORDERED as follows: 1. D or dismiss, Doc. No. 87, is DENIED WITHOUT

PREJUDICE; 2. If Plaintiff wishes to pursue a PAGA claim, he must file a revised trial plan reflecting

this order, class certification, and relevant aspects of forthcoming pending motion for summary judgment within 28 calendar days of the date of judgment; 3. If Plaintiff fails to file a revised trial plan in the time specified above, Plaintiff may

renew this motion or bring a similar motion with respect to the PAGA claim based on ; and 4. If Plaintiff files a revised trial plan in the time specified above, Plaintiff may bring a

motion as to the PAGA claim authority, provided Defendants has met and conferred with Plaintiff regarding the trial plan and believe in good faith that such a motion is warranted.

IT IS SO ORDERED. Dated: April 6, 2023 SENIOR DISTRICT JUDGE