DEVINE v ACRT PACIFIC, LLC

25CV48363

DEFENDANT'S MOTION TO STAY

This is a wage and hour class action brought by Mike Devine ("Plaintiff") against ACRT Pacific, LLC ("ACRT.")

Now before the Court is a motion stay brought by ACRT.

I. Background

On October 7, 2025, Plaintiff filed a Complaint alleging violations of California Labor Code for 1) unpaid overtime, 2) unpaid meals, 3) unpaid rest periods, 4) unpaid minimum wages, 5) final wages not timely paid, 6) wages not timely paid during employment, 7) non-compliant wage statements, 8) failure to keep requisite payroll records and 9) unreimbursed business expenses. Plaintiff also brought a cause of action for violation of California Business & Professions Code § 17200, et seq.

Plaintiff brings this action on his own behalf and on behalf of all other members of the general public similarly situated. The proposed class is defined as:

> All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from four years preceding the filing of this Complaint to final judgment.

Relevant to this action, is another action filed in San Joaquin Superior Court, titled *Joe Carmack v. ACRT Pacific, LLC*, Case No. STK-CV-U0E-2025-0005804 ("*Carmack*.") *Carmack* was filed on April 23, 2025, and also seeks to proceed as a class action for wage and hour violations. *Carmack* contains substantially the same causes of action as the instant matter and brings claims for: 1) failure to pay minimum wages, 2) unpaid overtime, 2) unpaid meals, 3) unpaid rest periods, 4) failure to pay sick time, 5) wage statement violations, 6) waiting time penalties, and unreimbursed business expenses. *Carmack* also has a cause of action for violation of California Business & Professions Code § 17200, et seq. Unlike the instant case, however, *Carmack*, does not allege

causes of action for :1) wages not timely paid during employment, and 2) failure to keep payroll records.

Carmack defines the proposed class as:

> All current or former non-exempt hourly employees who work or worked for Defendant in California during the four years immediately preceding the filing of the Complaint through the date of trial.

II. Legal Standard and Analysis

> "Under the rule of exclusive concurrent jurisdiction, 'when two superior courts have concurrent jurisdiction over the subject matter and all parties involved in litigation, the first to assume jurisdiction has exclusive and continuing jurisdiction over the subject matter and all parties involved until such time as all necessarily related matters have been resolved.' [Citations.] The rule is based upon the public policies of avoiding conflicts that might arise between courts if they were free to make contradictory decisions or awards relating to the same controversy, and preventing vexatious litigation and multiplicity of suits."
>
> (*Plant Insulation Co. v. Fibreboard Corp*. (1990) 224 Cal.App.3d 781, 786– 787.)

The rule is meant to protect the rights of the Courts to " 'avoid conflict of jurisdiction, confusion and delay in the administration of justice.'" (*Ibid* [citation omitted].) Accordingly, the rule "does not require absolute identity of parties, causes of action or remedies sought in the initial and subsequent actions. [Citations.] If the court exercising original jurisdiction has the power to bring before it all the necessary parties, the fact that the parties in the second action are not identical does not preclude application of the rule." (*People ex rel. Bonta v. GreenPower Motor Co., Inc.* (2025) 113 Cal.App.5th 43, 49.) However, the issues in the two proceedings "must be substantially the same and the individual suits must have the potential to result in conflicting judgments." (*Franklin & Franklin v. 7-Eleven Owners for Fair Franchising* (2000) 85 Cal.App.4th 1168, 1176.)

ACRT contends that because *Carmack* and the instant matter have nearly identical claims involving the same proposed class, "no valid purpose can be served by allowing these two identical actions to be concurrently litigated." (Mtn p. 3.) In opposition, Plaintiff argues that the instant action is different because: 1) it has two additional claims not

brought in the *Carmack* action and 2) because in this case ACRT raised a defense of NLRA preemption. As to the first argument, Plaintiff's argument is not persuasive because exclusive jurisdiction does not require that every single claim be identical, only that they be substantially the same. The wage and hours claims raised in both cases are substantially the same. As to the second argument, any issues related to the collective bargaining agreement or union membership will also be implicated in *Carmack* because the proposed class is nearly identical and the same defense is raised in *Carmack*. (Declaration of Rachel Chatman ("Chatman Decl.") ¶ 2, Ex. 1.)

Carmack and the instant case are both class action lawsuits on behalf of non-exempt current and former employees of ACRT. They both allege nearly identical wage and hour violations over roughly the same period of time. Both cases seek similar relief, primarily monetary damages for unpaid wages, meal and rest period premiums, waiting time penalties and unreimbursed expenses. Therefore, *Carmack* and the instant action have a high potential to result in conflicting judgments as the issues in the two actions are substantially similar because they involve ACRT's wage and hour violations for the same time period affecting the same class of non-exempt current and former employees. Because *Carmack* was filed first, the San Joaquin Superior Court was first to assume jurisdiction.

Thus, ACRT's motion for stay is **GRANTED**. This action is stayed pending final resolution of *Carmack* in the San Joaquin Superior Court (Case No. STK-CV-U0E-2025-0005804.)

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted Proposed Order.

RAMIREZ v FAMILY DOLLAR, LLC

25CV48285

DEFENDANT'S MOTION TO COMPEL ARBITRATION; DEFENDANT'S JOINDER ON MOTION TO STAY PROCEEDINGS

This is a discrimination case brought by Ramona Ramirez ("Plaintiff") against Family Dollar, LLC ("Dollar"), Family Dollar Services, LLC ("Services"), Family Dollar Operations, LLC ("Operations") and Dollar Tree Stores, Inc. ("Stores.")

Now before the Court is a motion to compel arbitration brought by Dollar, Services, and Operations. The motion is joined by Stores.

The Motions do not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

> 3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:
>
> **Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The**

> **complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court** [emphasis in original.]
>
> Failure to include this language In the notice may be a basis for the Court to deny the motion.

Accordingly, the motions are **DENIED, without prejudice to refile**.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

UNIVERSITY CREDIT UNION v BERRY

25CF15100

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT/SUMMARY ADJUDICATION

This case involves the alleged breach of a solar loan entered into between University Credit Union ("Plaintiff") and Yvonne L. Berry, individually and as a Trustee of the Yvonne L. Berry Trust ("Defendants.")

Now before the Court is a motion for summary judgment.

The Motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

> 3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:
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> **Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative**

> **ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court** [emphasis in original.]
>
> Failure to include this language In the notice may be a basis for the Court to deny the motion.

Accordingly, the motion is **DENIED without prejudice to refile**

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.