

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER
247 W. 3RD ST
SAN BERNARDINO, CA 92415-0210

CASE NO: CIVDS1304898

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I M P O R T A N T C O R R E S P O N D E N C E

From the above entitled court, enclosed you will find:

Ruling on Submitted Matter

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice:

Enclosed in a sealed envelope mailed to the interested party addressed above, for collection and mailing this date, following standard Court practices.

Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.

A copy of this notice was given to the filing party at the counter

A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 04/26/17

I declare under penalty of perjury that the foregoing is true and correct. Executed on 04/26/17 at San Bernardino, CA

BY: PATRICIA VEGA

M A I L I N G C O V E R S H E E T

COUNTY OF SAN BERNARDINO SUPERIOR COURT
STATE OF CALIFORNIA
MINUTE ORDER

CASE NO: CIVDS1304898

DATE: 04/21/17

CASE TITLE: SANCHEZ -V- ST MARY MEDICAL CENTER (COMPLEX)

DEPT: S22 04/21/17 TIME: 8:30
Ruling on Submitted Matter

COMPLAINT TYPE: EMP

BRYAN F FOSTER, JUDGE

Clerk: PATRICIA VEGA

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Court rules as follows on submitted matter:

The Courts prior ruling on class certification failed to consider the issue of whether to certify a separate stand-alone overtime class. Now seeing this oversight, the Court has evaluated this limited issue on its own motion for reconsideration.

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Numerosity.

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From the submitted evidence, St. Mary employs 2,489 as of September 25, 2013, and as of 2016, it employs 2,931 individuals. Based on a sampling of employees, Kriegler (Plaintiffs expert) found 40 (forty) 10-hour AWS and 131 (one hundred thirty-one) 12-hour AWS employees had overtime hours. The 10- and 12-hour AWS employees noted by Krieger is a sampling so the total number of AWS employees is greater than 172. A class of greater than 172 would be sufficiently numerous to render joinder impractical.

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Typicality.

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St. Mary employed Sanchez as a pharmacy technician between February 13, 2008, and May 9, 2013. She was employed under a 10-hour AWS. Thus, Plaintiff employed during a portion of the proposed class period (May 10, 2009-September 12, 2016). Sanchez attests to not being paid daily overtime (i.e., work over 8-hours). She is a member of the Union Steelworker union. Plaintiffs expert attests in his sampling 99% of the 10- and 12-hour AWS employees and 84.8% of the shifts included unpaid overtime hours.

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The CBA between St. Mary and the United Steel union members covers the employees whose classification expressly covered by the certifications of the National Labor Relations Board (NLRB) for service/nonprofessional (case no. 21-RC-8649) and technical (case no. 21-RC-8650). Overtime for a 10-hour AWS Union Steel employee arises if she works over 10-hours in a workday or over 40-hours in a workweek (paid at 1.5x regular rate of pay). Overtime for a 12-hour AWS Union Steel employee arises if works over 12 hours in a workday (paid at 2x regular rate of pay) or over 40-hours in a workweek (paid at 1.5x regular rate of pay).

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The CBA between St. Mary and the California Nurses Association (CNA) covers those nurses covered by the NLRB certification. RNs who work 10-hour shifts entitled to overtime for all hours over 10 in a workday or over 40 in a workweek (pay at 1.5x regular rate of pay). RNs who work 12-hour shifts entitled to overtime for all hours worked over 12 in a workday (pay at 2x regular rate of pay) or over 40 in a workweek (pay at 1.5x regular rate of pay).

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Sanchez is typical with service/non-professional, technical, and RNs in relation to not being paid overtime for any hours worked over 8 in a day because classified under an AWS schedule.

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Commonality.

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In relation to the unpaid overtime, Labor Code 510 generally provides the standard for overtime compensation, i.e. any work over 8 hours in a day or 40-hours in a workweek compensated at the rate of no less than one and one-half times the regular rate of pay. The 10- and 12-hour AWS employees are governed by one of two CBAs, i.e., the Union Steelworker CBA for service/non-professional and technical employees (i.e., Sanchez), and the CNA CBA for RNs. These CBAs contain the agreements associates with the hours, wages, and working conditions of the employees working under NLRB certifications.

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Whether the CBAs comply with Labor Code section 514 requirements would require merely comparing the CBAs with the necessary standard imposed by Labor Code section 514. Nothing indicates individual class members would need to be questioned related to the contents of the at-issue CBAs. If the CBAs fail, then through a review of time sheets one can determine the owed overtime.

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Common questions predominate in relation to the Overtime Class, as related to the 10- and 12-hour AWS employees not being paid for all hours worked over 8.

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Superiority.

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Superiority would exist to adjudicating the Overtime Class for payment of overtime of hours worked over 8 by the 10- and 12-hour AWS employees. Determining such on a class-wide basis will benefit the class without requiring each individual to appear to prosecute what may be an otherwise small individual claim. Managing this issue will not be so difficult because the issue is primarily a legal one (i.e., did the CBAs comply with Labor Code 514, and was the AWS adoption in accordance with law), and statistical evidence or review of each AWS employees time records can be used to determine the overtime hours.

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The Court grants Plaintiff Sanchezs Motion to Certify the 1st and 2nd cause of action as relates to the Overtime Class including 10- and 12-hour AWS employees who worked over 8-hours in a day pursuant to invalid AWS and/or CBA.

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HEARINGS:

Trial Setting Conference set for 07/19/17 at 8:30 in Dept. S22

Correspondence coversheet generated to mail Ruling on Submitted Matter to counsel of record.

Notice given by Judicial Assistant

Action - Complete

=== MINUTE ORDER END ===

=== MINUTE ORDER END ===