

Case Name: *Lovely Cacananta v. Samaritan, LLC*
Case No.: 19CV349850

This is a putative class and Private Attorneys General Act (“PAGA”) action alleging wage statement violations against Defendant Samaritan, LLC (“Samaritan”). Before the Court is Defendant’s unopposed motion stay this action pending resolution of the appeal in related class and PAGA action entitled *Jennifer Richert v. Samaritan, LLC* (the “*Richert Appeal*”), which is pending in the Sixth District Court of Appeal. As discussed below, the motion is GRANTED.

I. BACKGROUND

A. Related Case

In August 2017, another Samaritan employee, Jennifer Richert, filed a similar action related to her wage statements, *Richert v. Samaritan, LLC* (Super. Ct. Santa Clara County, No. 17CV314186) (*Richert*). Ms. Richert is represented by the same counsel who represent Plaintiffs here. She alleges that, during pay periods when she received overtime wages, her wage statements failed to identify the accurate total hours worked as required by the Labor Code. Based on these allegations, she brings (1) a putative class claim for violation of Labor Code section 226 (“Section 226”) and (2) a claim for PAGA penalties.

In June 2020, the Court certified the *Richert* class of “[a]ll current and former California non-exempt employees, who were paid overtime wages by [Samaritan], at any time between August 8, 2016 to the present.” The matter proceeded to a bench trial on liability, which was held on August 1 and 2, 2022. On August 28, 2023, the Court issued a Final Statement of Decision Following Phase 1 of Trial finding against Ms. Richert and in favor of Defendant on liability on her Section 226, subdivision (a)(2) and (9) claims, both directly for her class action claim and as a predicate for liability under PAGA.

B. Initial Complaint in this Action

The initial complaint (“Complaint”) in this action was filed on July 1, 2019 with Lovely Cacananta as the named plaintiff. Ms. Cacananta alleged that she had worked for Defendant as an hourly, non-exempt employee since May 2018 and during that time, she and other employees were not provided with legally compliant wage statements. Specifically, when shift differential wages were paid, the wage statements failed to accurately identify the total hours worked by the employee during the pay period. (*Ibid.*) In this situation, the hours displayed on the wage statements did not equal the actual total hours worked during the pay period. (*Ibid.*) Like the plaintiff in *Richert*, Ms. Cacananta brought (1) a putative class claim for violation of Section 226 and (2) a claim for PAGA penalties.

In November 2022, Ms. Cacananta moved to certify the following class:

all current and former California non-exempt employees of Defendant Samaritan, LLC who were paid shift differential wages at any time between July 1, 2018, through the present.

After holding oral argument, the Court denied Ms. Cacananta's motion after determining that her testimony in another case established that her claims were not typical of those advanced in the Complaint. Plaintiff later moved for, and was granted, leave to amend the Complaint to add Justin Whitehouse as a named plaintiff. In September 2023, Plaintiffs again moved for class certification, and in its order dated October 10, 2023, the Court granted the motion, but ordered the parties not to proceed with class notice until various issues, including a possible stay motion, were resolved at the upcoming case management conference.

II. DEFENDANT'S REQUEST FOR JUDICIAL NOTICE

In support of its motion for a stay, Defendant requests that the Court take judicial notice of the following items: (1) the August 8, 2017 Complaint in *Richert* (Exhibit 1); (2) the September 18, 2017 First Amended Complaint in *Richert* (Exhibit 2); (3) the Court's June 17, 2019 Ruling on the Motion for Class Certification in *Richert* (Exhibit 3); (4) the Court's December 27, 2021 Order Concerning Defendant's Renewed Motion for Summary Judgment in *Richert* (Exhibit 4); (5) the Court's May 4, 2022 Order on Plaintiff's Motion to Modify the Class Definition in *Richert* (Exhibit 5); (6) the Court's April 17, 2023 Proposed/Tentative Statement of Decision Following Phase I Court Trial in *Richert* (Exhibit 6); (7) the Court's August 28, 2023 Final Statement of Decision in *Richert* (Exhibit 7); (8) the Court's September 15, 2023 Final Judgment Following Court Trial in *Richert* (Exhibit 8); and (9) Plaintiff's October 3, 2023 Notice of Appeal in *Richert* (Exhibit 9). All of the foregoing are proper subjects of judicial notice as court records under subdivision (d) of Evidence Code section 452. Accordingly, Defendant's request for judicial notice is GRANTED.

III. DEFENDANT'S MOTION TO STAY PROCEEDINGS

A. Legal Standard

"Trial courts generally have the inherent power to stay proceedings in the interests of justice and to promote judicial efficiency." (*Freiberg v. City of Mission Viejo* (1995) 33 Cal.App.4th 1484, 1489.) The trial court's inherent power to exercise reasonable control over all proceedings connected with the litigation before it "rests upon and is limited by the exercise of sound judicial discretion." (*Bailey v. Fosca Oil Co.* (1963) 216 Cal.App.3d 813, 818.) "Granting a stay in a case where the issues in two actions are substantially identical is a matter addressed to the sound discretion of the trial court." (*Thompson v. Continental Ins. Co.* (1967) 66 Cal.2d 738, 746.)

"In exercising its discretion the court should consider the importance of discouraging multiple litigation designed solely to harass an adverse party, and of avoiding unseemly conflicts with the courts of other jurisdictions. It should also consider whether the rights of the parties can best be determined by the court of the other jurisdiction because of the nature of the subject matter, the availability of witnesses, or the stage to which the proceedings in the other court have already advanced." (*Caiafa Prof. Law Corp. v. State Farm Fire & Cas. Co.* (1993) 15 Cal.App.4th 800, 804 [internal citation and quotations omitted].)

B. Discussion

Defendant maintains that the instant action should be stayed pending resolution of the *Richert* Appeal because it is largely duplicative of *Richert*, with Plaintiffs similarly alleging that Defendant violated Section 226 by providing a wage statement which failed to identify the accurate total hours worked as required. Plaintiffs assert the same two causes of action for (1) a putative class claim for violation of Section 226 and (2) a claim for PAGA penalties based on the foregoing violation, and there are overlapping classes and time periods. Once the *Richert* decision becomes final, Defendant explains, Plaintiff will be bound by principles of res judicata and collateral estoppel, and staying this action until that point will avoid the potential for inconsistent judgments, conserve judicial resources, and is in the best interests of the parties. The Court agrees.

Mr. Whitehouse essentially seeks to pursue claims already litigated and adjudicated in *Richert*. *Richert* and the instant action involve the same defendant, the same plaintiffs' counsel, the same court, the same statutes, the same causes of action, the same pay stubs, and overlapping time periods. The main difference is that the instant action is directed at employees who were paid shift differentials, whereas the *Richert* lawsuit pertains to employees who received overtime. Because Ms. Richert and Mr. Whitehouse both worked overtime and received shift differentials, Mr. Whitehouse is a member of the *Richert* class, and Ms. Richert is a member of the class in this case. Undoubtedly, a stay will avoid potentially inconsistent judgments and conserve judicial resources, as the Court will be able to avoid having to adjudicate claims that it *already* adjudicated in *Richert*. The Court can discern no reason why Defendant should be required to litigate this copycat case given the significant resources expended in *Richert*, nor does it believe that a stay will result in any prejudice to Mr. Whitehouse and the class. Plaintiffs impliedly conceded this point by electing not to oppose Defendant's motion. In short, a stay of these proceedings pending the resolution of the *Richert* Appeal is in the best interests of the parties and the Court. Thus, the motion is granted.

IV. CONCLUSION

Defendant's motion to stay this action pending resolution of the *Richert* Appeal is GRANTED.

The court will prepare the final order.

LAW AND MOTION HEARING PROCEDURES

Parties may appear in person or remotely. Remote appearances must be made through Microsoft Teams, unless otherwise arranged with the Court. Please go to https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml to find the appropriate link.

State and local rules prohibit recording of court proceedings without a court order. These rules apply while in court and also while participating or listening in a hearing remotely. No court order has been issued which would allow recording of any portion of this motion calendar.

The Court does not provide court reporters for proceedings in the complex civil litigation departments. Any party wishing to retain a court reporter to report a hearing may do so in compliance with this Court's October 13, 2020 Policy Regarding Privately Retained Court Reporters. The court reporter can either be in person or appear remotely.