


1 overtime compensation under the FLSA for the time period from October 13, 2003 to
2 February 26, 2010” even though Plaintiff is only entitled to relief dating back to January 6,
3 2009. (*Id.*).

4 **ANALYSIS**

5 The statute of limitations for an FLSA action has been codified in 29 U.S.C. § 255. Under
6 § 255, an action must be commenced “within two years after the cause of action accrued.”
7 Plaintiff has conceded that he is only asking for overtime pay dating back to January 6, 2009,
8 which is within the two-year statute of limitations prescribed by FLSA.¹ Therefore, the Court
9 will construe the Complaint as limiting the FLSA time period to between January 6, 2009
10 and February 26, 2010. Although Plaintiff refers to damages in the amount of “at least
11 \$37,253.48,” he is still limited by the two-year time period.

12 **IT IS THEREFORE ORDERED** that Defendant’s Motion to Dismiss (Doc. 12) is
13 **DENIED.**

14 DATED this 8th day of April, 2011.

15
16 

17

G. Murray Snow
18 United States District Judge
19
20
21
22
23
24

25 ¹ In its Reply, Defendant raises for the first time the issue of whether Plaintiff, in his
26 Complaint, is requesting overtime pay starting on January 5, 2009. The Court need not
27 address this issue both because Defendant raises it for the first time in its Reply and because
28 Plaintiff has already conceded that the period of overtime pay he is requesting begins on
January 6, 2009. *See Bazuaye v. I.N.S.*, 79 F.3d 118, 120 (9th Cir. 1996) (“Issues raised for
the first time in the reply brief are waived.”).