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18 UNITED STATES DISTRICT COURT
19 EASTERN DISTRICT OF CALIFORNIA—FRESNO DIVISION

20
21 BRIAN BUTTERWORTH and
22 MARGO CHUI, individually, and on
behalf of other members of the
23 general public similarly situated,

24 Plaintiff,

25 vs.

26 AE RETAIL WEST, a Corporation;
and DOES 1 through 10, inclusive,

27 Defendants.
28

Case No.: 1:11-CV-01203-LJO-DLB

Hon. Dennis L. Beck,
U.S. Magistrate Judge

**STIPULATION TO STAY CASE,
VACATE ALL HEARINGS AND
DEADLINES, AND DISMISS
PLAINTIFF MARGO CHUI,
WITHOUT PREJUDICE; AND
[PROPOSED] ORDER THEREON**

Complaint Filed: May 12, 2011

1 Plaintiffs Brian Butterworth and Margo Chui and Defendant AE Retail
2 West (collectively, “Parties”), by and through their respective counsel, **HEREBY**
3 **STIPULATE**, subject to approval of the Court, as follows:

4 **WHEREAS**, on or about May 12, 2011, in Stanislaus County Superior
5 Court, Plaintiffs filed a class action alleging various California wage and hour
6 violations (“Butterworth Action”);

7 **WHEREAS**, on or about July 2011, Plaintiffs’ action was removed to this
8 Court;

9 **WHEREAS**, on December 8, 2011, the Honorable Magistrate Judge
10 Dennis L. Beck adopted the following dates and deadlines for Plaintiffs’ Motion
11 for Class Certification:

- 12 Filing: June 29, 2012
- 13 Opposition: August 14, 2012
- 14 Reply: September 28, 2012
- 15 Hearing: October 30, 2012

16 **WHEREAS**, a related case against the same Defendant was filed by
17 another former employee, Jared Bercea, in the Sacramento County Superior Court,
18 Case No. 34-2012-00123947 (“Bercea Action”);

19 **WHEREAS**, the Parties have reached a global settlement in principle of
20 the Bercea Action that would release the claims asserted in this action;

21 **WHEREAS**, in the interest of judicial economy, and as part of the
22 settlement process, the Parties have agreed to permit the Plaintiff in the Bercea
23 Action to amend the complaint in the Bercea Action to add Margo Chui as a
24 plaintiff in the Bercea Action, and the Parties have agreed to dismiss Margo Chi,
25 without prejudice, as a plaintiff in this action;

26 **WHEREAS**, the Parties have also agreed to seek approval of the global
27 settlement in the Bercea Action, which is pending in Sacramento County Superior
28 Court;

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WHEREAS, in the event that final approval of the global settlement is granted by the Sacramento County Superior Court, this action will be dismissed with prejudice and the Bercea Action will be dismissed with prejudice;

WHEREAS, the Parties believe that the above-entitled action should be stayed, and all dates, deadlines, hearings and other events should be vacated, pending the outcome of the approval process in the Bercea action, and the parties should stipulate to dismiss Margo Chui, without prejudice, from this action;

THEREFORE, the Parties hereby stipulate as follows:

1. The Court should stay the above-entitled action pending the outcome of the approval process in the Bercea Action;
2. The Court should vacate all dates, deadlines and hearings and other events currently on calendar, including the dates and deadlines which govern Plaintiff’s Motion for Class Certification; and
3. Plaintiff Margo Chui should be dismissed, without prejudice.

IT IS SO STIPULATED.

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ORDER

The Court has received, reviewed and considered the Stipulation to Stay Case and Vacate All Hearings and Deadlines. Good cause appearing, it is hereby **ORDERED** that:

1. The Court stays the above-entitled action pending the outcome of the approval process in the Bercea Action, which is pending in the Sacramento County Superior Court.
2. The Court vacates all dates, deadlines and hearings and other events currently on calendar, including the dates and deadlines which govern Plaintiff’s Motion for Class Certification.
3. The Court dismisses Margo Chui, without prejudice. **This Court FURTHER ORDERS the parties, no later than July 2, 2012, and every 90 days thereafter, to file joint status reports to address completion of settlement of the Bercea action and the need to continue stay of this action.**

IT IS SO ORDERED.

Dated: May 25, 2012

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE