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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**JOHN PEREZ and on behalf of all
other similarly situated individuals,**

Plaintiff,

**LEPRINO FOODS COMPANY, a
Colorado Corporation; LEPRINO
FOODS DAIRY PRODUCTS
COMPANY, a Colorado Corporation;
and DOES 1-50, inclusive,**

Defendants.

CASE NO. 1:17-CV-00686-AWI-BAM

**ORDER TO SHOW CAUSE WHY A
STAY SHOULD NOT BE IMPOSED**

19 On November 15, 2013, Plaintiff Jerrod Finder (“Finder”) filed a wage and hour class
20 action against Leprino Foods Company and Leprino Foods Dairy Products Company
21 (collectively “Leprino”), alleging California Labor Code violations including failures to provide
22 a second meal break or accurate itemized statements, waiting time violations, Unfair Business
23 Practices Act violations, and Private Attorneys General Act claims based on those substantive
24 violations. On January 21, 2015, Jonathon Talavera (“Talavera”) filed a wage and hour class
25 action against Leprino, alleging, (1) claims relating to Leprino’s donning and doffing procedure
26 for required sanitary gear, (2) the same second meal period denial claim as Finder, and (3) claims
27 for failure to pay all hours worked, overtime, and wages upon termination (based on both (a) the
28 second meal period and rest period denials, and (b) the donning and doffing related claims). The

1 Court consolidated the two actions on November 21, 2016. *Finder v. Leprino*, Case No. 1:13-cv-
2 2059-AWI-BAM, Doc. 63. In the same order, this Court noted that *Talavera* appeared “to have
3 abandoned his donning and doffing claims” in seeking class certification. *Id.* at Doc. 63 at 5.¹ On
4 January 20, 2017, the Court stayed the consolidated action. *Id.* at Doc. 81.

5 On April 13, 2017, counsel for Talavera filed *Perez v. Leprino*—a new putative class
6 action in Kings County Superior Court against Leprino, alleging claims that appear to be almost
7 identical to those alleged in the *Talavera* action. *Compare* Doc. 1 at 11-32 with *Talavera v.*
8 *Leprino*, 1:15-cv-105-AWI-BAM, Doc. 13-1. That action was removed to this Court on May 18,
9 2017, and reassigned to the undersigned on May 24, 2017. Doc. 6. The first through third, fifth,
10 and sixth causes of action alleged in the *Perez* action appear to implicate the same question now
11 pending before the Ninth Circuit Court of Appeals in *Finder*— “whether failure to itemize or pay
12 ‘meal period premiums’ constitutes failure to itemize or pay ‘wages.’” *Finder v. Leprino*, Case
13 No. 1:13-cv-2059-AWI-BAM, Doc. 81 at 2. In light of the striking similarity of the actions and
14 the implication of the same issue now on appeal, Plaintiff is ORDERED TO SHOW CAUSE by
15 June 14, 2017 why this action should not be stayed pending resolution of the interlocutory appeal
16 now pending before the Ninth Circuit Court of Appeals. *Finder v. Leprino*, Ninth Cir. Case No.
17 16-80104. Defendant may, but is not required to, submit briefing on its position regarding a stay
18 by June 14, 2017.

19
20 IT IS SO ORDERED.

21 Dated: May 30, 2017



22 SENIOR DISTRICT JUDGE
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28 ¹ The consolidated action was stayed without resolving the motion for class certification filed in the *Talavera* Action.