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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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RICARDO CASTILLO,
individually and on behalf of
all others similarly
situated,

 Plaintiff,

 v.

ADT LLC and DOES 1-100,
inclusive,

 Defendants.

CIV. NO. 2:15-383 WBS DAD
ORDER

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Plaintiff Ricardo Castillo brought this action against defendant ADT LLC ("ADT") on behalf of similarly situated employees alleging failure to pay overtime, to provide accurate itemized wage statements, and to reimburse employees for work-related expenses in violation of California labor law. (See Compl. (Docket No. 1).) Defendant filed this motion to dismiss or stay the action, upon the ground that the present action is

1 "substantially duplicative" of an earlier filed related action,
2 Garnett v. ADT LLC, Civ. No. 2:14-2851 WBS DAD (E.D. Cal. filed
3 Dec. 5, 2014) ("Garnett"). (Def.'s Mem. at 1:2-3 (Docket No. 21-
4 2)); see Adams v. Cal. Dep't of Health Servs., 487 F.3d 684, 688
5 (9th Cir. 2007) (citations omitted), overruled on other grounds
6 by Taylor v. Sturgell, 553 U.S. 880, 904 (2008) ("[T]he district
7 court may exercise its discretion to dismiss a duplicative later-
8 filed action, to stay that action pending resolution of the
9 previously filed action, to enjoin the parties from proceeding
10 with it, or to consolidate both actions.").

11 At the hearing, defendant appeared to shift positions
12 to request only an extension of time to respond to pending
13 interrogatories, in order to allow for sufficient time to prepare
14 for a mediation in the Garnett action set for August 13, 2015.
15 The court finds this request reasonable and sees no reason why an
16 extension would prejudice plaintiff. The court will therefore
17 grant defendant a thirty-day extension of time to respond to the
18 pending interrogatories. The parties stated they would stipulate
19 to modifying the scheduling order accordingly.


20 Beyond that request, the court finds no basis for
21 granting defendant's motion for a dismissal or stay. Outright
22 dismissal of the present action is inappropriate because the
23 named plaintiff brings additional claims not asserted in Garnett.
24 Neither is a stay warranted, because the allegedly overlapping
25 wage-statement and reimbursement claims in Garnett and Castillo
26 involve different factual allegations and therefore do not arise
27 from the same transactional nucleus of fact and cannot be
28 "duplicative." See Adams, 487 F.3d at 689 (noting that the most

1 important consideration is whether the two suits arise from the
2 same transactional nucleus of fact); see, e.g., Padilla v.
3 Nevada, Civ. No. 3:07-00442 RAM, 2009 WL 656288, at *4 (D. Nev.
4 Mar. 11, 2009) (holding that two allegedly duplicative actions
5 are "factually distinct" and do not warrant dismissal because the
6 later-filed action "challenges an additional set of sanctions"
7 imposed on plaintiff, an inmate, and relies on a "broader set of
8 facts" than the earlier action).

9 IT IS THEREFORE ORDERED that defendant's motion to
10 dismiss or stay be, and the same hereby is, DENIED.

11 IT IS FURTHER ORDERED that defendant shall have an
12 additional thirty days to respond to pending interrogatories.
13 Parties may submit a stipulation for the court's approval to
14 modify the scheduling order accordingly.

15 Dated: July 28, 2015

16 
17 **WILLIAM B. SHUBB**
18 **UNITED STATES DISTRICT JUDGE**