UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRIS PYARA on behalf of himself, all others similarly situated, and on behalf of the general public,

Plaintiffs,

v.

SYSCO CORPORATION; SYSCO SACRAMENTO, INC., a California Corporation; and DOES 1-100,

Defendants.

Case No.: 2:15-CV-01208-JAM-KJN

[Honorable John A. Mendez]

ORDER DENYING PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

Date: March 7, 2017
Time: 1:30 p.m.
Crtm: 6

Action Filed: April 13, 2015
Action Removed: June 4, 2015
Trial Date: None Set

ORDER

This matter came before the Court on Plaintiff Chris Pyara's ("Plaintiff") Motion for Class Certification ("Motion") (Doc. # 42-1) pursuant to Rule 23 of the Federal Rules of Civil Procedure. Defendants Sysco Sacramento, Inc. and Sysco Corporation (collectively, "Defendants") opposed the Motion (Doc. #46), and Plaintiff replied (Doc. #47). A hearing on this Motion was held on March 7, 2017, in Courtroom 6 of the United States District Court for the Eastern District of California, located at the Robert T. Matsui Courthouse, 501 I Street, Sacramento, California 95814, the Honorable John A. Mendez presiding.

BACKGROUND

Plaintiff's Complaint (Doc. #1-1) alleges ten causes of action against Defendants. Pursuant to Defendants' Motion for Judgment on the Pleadings (Doc. #9), the Court issued an order dismissing Plaintiff's prior claims for failure to pay overtime, failure to provide meal periods, and failure to provide accurate wage statements from the Complaint (Doc. #18). Plaintiff's First Amended Complaint (Doc. #34) alleges the following eight operative causes of action: failure to pay straight time wages, failure to provide rest breaks, failure to pay all wages due at the time of termination, unjust enrichment, conversion, fraud, violation of California's unfair competition laws and failure to reimburse necessary and reasonable business expenditures.

In his Motion, Plaintiff seeks to certify the following class and three subclasses:

> **Unpaid Straight Time Wages Class:** All hourly paid drivers employed by Sysco Sacramento, Inc. in the State of California at any time from April 13, 2011 to the present.
>
> **Rest Period Subclass:** All hourly paid drivers employed by Sysco Sacramento, Inc. in the State of California at any time from April 13, 2011 to the present who worked more than 3.5 hours on any day.
>
> **Reimbursement Subclass:** All hourly paid drivers employed by Sysco Sacramento, Inc. in the State of California at any time from April 13, 2011 to the present who were required to use their personal cell phones during their course of employment and were not reimbursed for this use.
>
> **Waiting Time Penalties Subclass:** All hourly paid drivers employed by Sysco Sacramento, Inc. in the State of California at

any time from April 13, 2012, to the present whose employment terminated with Sysco Sacramento, Inc. sometime between April 13, 2012 and the present.

FINDINGS

The Court denied the Motion based on the following findings:

A. **Numerosity** (Rule 23(a)(1)): The numerosity requirement is satisfied.

B. **Commonality** (Rule 23(a)(2)): The commonality requirement is not satisfied for the proposed Unpaid Straight Time Wages Class and three Subclasses.

C. **Typicality** (Rule 23(a)(3)): While the Court does not need to reach this issue, it appears that Plaintiff has shown typicality.

D. **Adequacy** (Rule 23(a)(4)): Plaintiff and Plaintiff's Counsel have satisfied the adequacy requirement.

E. **Predominance** (Rule 23(b)(3)): The Rule 23(b)(3) requirement that questions of law or fact common to the class would predominate over any questions affecting only individual members has not been satisfied for the proposed Unpaid Straight Time Wages Class and three Subclasses.

Further details of the Court's reasons for denying the Motion are set forth in the transcript of the March 7, 2017 hearing on the Motion and the March 9, 2017 Supplement to Court's Ruling Denying Plaintiff's Motion for Class Certification (Doc. #55), copies of which are attached as Exhibits A and B, respectively, and incorporated herein by reference.

After considering the papers and evidence in support of and in opposition to the Motion, as well as oral argument, and for GOOD CAUSE SHOWN, the Court **DENIES** Plaintiff's Motion in its entirety.

IT IS SO ORDERED.

Dated: 3/29/2017

/s/ John A. Mendez
The Honorable John A. Mendez
U.S. District Court Judge