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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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JIMMY ALEXANDER, on behalf of  
himself and other aggrieved  
current and former employees,  
  
Plaintiff,  
  
v.  
  
REPUBLIC SERVICES, INC.;  
ALLIED WASTE SYSTEMS, INC.,  
doing business as "Republic  
Services of Contra Costa  
County"; SOLANO GARBAGE  
COMPANY; and DOES 1 through  
50, inclusive,  
  
Defendants.

CIV. NO. 2:17-0645 WBS AC  
  
ORDER RE: MOTION FOR JUDGMENT ON  
THE PLEADINGS OR, ALTERNATIVELY,  
A MORE DEFINITE STATEMENT

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Plaintiff Jimmy Alexander brought this putative class  
action against defendants Republic Services, Inc.; Allied Waste  
Systems, Inc.; and Solano Garbage Company, alleging that  
defendants violated various provisions of the California Labor  
Code and Fair Labor Standards Act ("FLSA"). (Notice of Removal,  
Compl. (Docket No. 2).) Before the court now is defendants'

1 Motion for judgment on the pleadings pursuant to Federal Rule of  
2 Civil Procedure 12(c) ("Rule 12(c)") or, alternatively, a more  
3 definite statement of allegations pursuant to Federal Rule of  
4 Civil Procedure 12(e) ("Rule 12(e)"). (Defs.' Mot. (Docket No.  
5 5).)

6 Plaintiff, a California resident, alleges that he "was  
7 formerly employed by Defendants in a non-exempt, hourly-paid  
8 position" in California. (Compl. ¶ 11.) Though his Complaint  
9 does not state what position he was employed in, his Opposition  
10 to defendants' Motion states that he was employed as a garbage  
11 collector. (See Pl.'s Opp'n at 6 (Docket No. 10).) Defendants  
12 are allegedly related California entities involved in the  
13 business of garbage collection. (See Compl. at 1, 4.)  
14 Plaintiff's Complaint offers no other factual allegations.

15 On February 14, 2017, plaintiff brought this action  
16 against defendants in the California Superior Court, alleging the  
17 following causes of action under the California Labor Code: (1)  
18 failure to provide or pay for required rest breaks, Cal. Lab.  
19 Code §§ 226.7, 512; (2) failure to pay minimum and overtime  
20 wages, id. §§ 510, 1194; (3) failure to keep accurate wage  
21 records, id. § 226; (4) failure to timely pay wages upon  
22 termination, id. § 203; and (5) engagement in unlawful business  
23 practices, Cal. Bus. & Prof. Code § 17200 et seq. (Compl. at 8-  
24 14.) In addition to his California Labor Code causes of action,  
25 plaintiff alleges a cause of action for unpaid minimum and  
26 overtime wages under the FLSA, 29 U.S.C. § 201 et seq. (Id. at  
27 11-13.) Plaintiff seeks class and collective action  
28 certification in this action. (Id. at 4-5.)

1 Defendants removed plaintiff's action to this court on  
2 March 27, 2017. (Notice of Removal (Docket No. 2).) They now  
3 move for judgment on the pleadings under Rule 12(c) or,  
4 alternatively, a more definite statement of allegations under  
5 Rule 12(e), in this action. (Defs.' Mot.)

6 Rule 12(c) provides that "[a]fter the pleadings are  
7 closed . . . a party may move for judgment on the pleadings."  
8 Fed. R. Civ. P. 12(c). "[T]he pleadings are closed for the  
9 purposes of Rule 12(c)" where, as here, "a complaint and answer  
10 have been filed." Doe v. United States, 419 F.3d 1058, 1061 (9th  
11 Cir. 2005). A Rule 12(c) motion is "functionally identical" to a  
12 Rule 12(b)(6) motion, and "the same standard of review" applies  
13 to both. Dworkin v. Hustler Magazine Inc., 867 F.2d 1188, 1192  
14 (9th Cir. 1989).

15 As with Rule 12(b)(6) motions, the inquiry on a Rule  
16 12(c) motion is whether, accepting the allegations in the  
17 pleadings as true and drawing all reasonable inferences in the  
18 plaintiff's favor, the plaintiff has pled "enough facts to state  
19 a claim to relief that is plausible on its face." Bell Atl.  
20 Corp. v. Twombly, 550 U.S. 544, 570 (2007). "[T]he tenet that a  
21 court must accept as true all of the allegations contained in a  
22 complaint is inapplicable to legal conclusions." Ashcroft v.  
23 Iqbal, 556 U.S. 662, 678 (2009). "Threadbare recitals of the  
24 elements of a cause of action, supported by mere conclusory  
25 statements, do not suffice" to state a plausible claim under Rule  
26 12(c). Id.

27 As with Rule 12(b)(6) motions, the court may grant a  
28 Rule 12(c) motion with leave to amend. Crosby v. Wells Fargo

1 Bank, N.A., 42 F. Supp. 3d 1343, 1346 (C.D. Cal. 2014).

2 Plaintiff's Complaint is substantially lacking in  
3 factual allegations. Plaintiff does not state, in his Complaint,  
4 what position defendants employed him in, when he was employed by  
5 defendants, what each defendant's employment relationship to him  
6 was, or any facts regarding how defendants allegedly violated his  
7 and putative class members' wage rights. Each of his causes of  
8 action is stated in terms of boilerplate recitations of law and  
9 legal conclusions. They each apply the same pattern of "(1)  
10 stating [defendants'] obligations under California law as an  
11 employer; (2) averring simply that [defendants] violated the law  
12 by failing to comply with [their] obligations; and (3) claiming  
13 damages and an entitlement to penalties and other relief." Byrd  
14 v. Masonite Corp., No. EDCV 16-35 JGB(KKX), 2016 WL 756523, at \*2  
15 (C.D. Cal. Feb. 25, 2016).

16 Such allegations are insufficient to state plausible  
17 wage and hour claims under Rule 12(c). See id.; Ritenour v.  
18 Carrington Mortg. Servs. LLC, No. SACV 16-2011 CJC(DFMx), 2017 WL  
19 59069, at \*6 (C.D. Cal. Jan. 5, 2017) (same); see also Landers v.  
20 Quality Communications, Inc., 771 F.3d 638, 644 (9th Cir. 2014)  
21 (holding that "conclusory allegations that merely recite the  
22 statutory language are [in]adequate" to state plausible wage and  
23 hour claims).

24 Though plaintiff filed an Opposition to defendants'  
25 Motion, he appears to have conceded in his Opposition and at oral  
26 argument that his Complaint is deficient and requires amendment.<sup>1</sup>

27 \_\_\_\_\_  
28 <sup>1</sup> Plaintiff noted in his Opposition that his Complaint is  
"filed pursuant to California laws governing pleading standards"

1 Defendants do not oppose providing plaintiff leave to amend his  
2 Complaint. (See Defs.' Proposed Order at 2 ("Plaintiff is hereby  
3 granted leave to amend his Complaint.") (Docket No. 5-2).)

4 Accordingly, the court will grant defendants' Motion  
5 and provide plaintiff leave to amend his Complaint.

6 IT IS THEREFORE ORDERED that defendants' Motion for  
7 judgment on the pleadings be, and the same hereby is, GRANTED  
8 without prejudice.

9 Plaintiff has twenty days from the date this Order is  
10 signed to file an amended complaint, if he can do so consistent  
11 with this Order.

12 Dated: May 17, 2017



13 **WILLIAM B. SHUBB**  
14 **UNITED STATES DISTRICT JUDGE**

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26 and he has "contacted defense counsel . . . offering to stipulate  
27 to the amendment of [his] complaint." (See Pl.'s Opp'n at 8.)  
28 At oral argument, plaintiff did not challenge defendants'  
arguments regarding the sufficiency of his Complaint and again  
offered to amend his Complaint.