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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JULIE CAMPANELLI, et al.,)	
)	
Plaintiff(s),)	No. C 08-1862 BZ
)	
v.)	
)	ORDER RE CALIFORNIA
THE HERSHEY COMPANY,)	OPT-IN PLAINTIFFS
)	
Defendant(s).)	
)	
_____)	

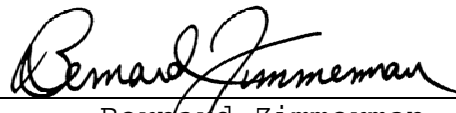
Having received defendant's request for a telephonic conference (Docket No. 391), and reviewed the parties' letters regarding the dispute, I find that a conference is unnecessary. California opt-in plaintiffs appeared in this action by filing their consent to join form in which they notified defendant they were asserting both their federal and California overtime claims and agreed to be bound by any judgment on these claims. Docket No. 163-2. To the extent that defendant claims it was not aware that California opt-in plaintiffs were also asserting their state claims, it could have asked for further clarifying language in the opt-in form or it could have objected when all California opt-in

1 plaintiffs moved for summary judgment on their California and
2 federal overtime claims. Docket No. 315 at 1. Objecting on
3 the eve of trial is untimely.

4 Defendant's reliance on Luna v. Del Monte is misplaced.
5 2009 WL 4801357 (N.D.Ga. 2009). Luna did not hold that before
6 an opt-in plaintiff can assert a state claim, "he or she must
7 first become full parties to the action by amending the
8 complaint to assert their individual claims." Doc. 391-2, at
9 p.6. Luna merely granted a joinder motion and a motion to
10 amend. Many of the reasons for permitting plaintiffs to
11 proceed in Luna apply here: "The opt-in plaintiffs are already
12 participating in the case as FSLA claimants. Defendant has
13 been aware of their identity and their potential claims. .
14 .for months." Id. at *3.

15 **IT IS THEREFORE ORDERED** that both federal and state
16 claims of California opt-in plaintiffs are properly before the
17 Court.

18 Dated: March 10, 2011



Bernard Zimmerman
United States Magistrate Judge

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