

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4  
5 GLENN HILL, and all others similarly  
situated,

6 Plaintiff,

7 v.

8 R+L CARRIERS, INC.; R+L CARRIERS  
9 SHARED SERVICES, LLC,

10 Defendants.

No. C 09-1907 CW

ORDER GRANTING  
PLAINTIFF LEAVE TO  
AMEND COMPLAINT TO  
ADD A NAMED  
PLAINTIFF AND CLASS  
REPRESENTATIVE  
(Docket No. 196)

11  
12 On September 2, 2010, Plaintiff Glenn Hill filed a motion for  
13 leave to file a second amended complaint. Defendant R+L Carriers  
14 Shared Services, LLC, opposed the motion in part, asserting that  
15 Plaintiff's proposed claim under the California Private Attorneys  
16 General (PAGA) Act was futile because it was barred by the statute  
17 of limitations. In his reply in support of his motion, filed  
18 September 30, 2010, Plaintiff suggested that he wished to move to  
19 join Casey Baker as another named Plaintiff and class  
20 representative. Plaintiff argued that a PAGA claim brought by Mr.  
21 Baker would not be time barred. Because Defendant did not have an  
22 opportunity to respond this argument, on October 8, 2010, the Court  
23 granted it leave to file a surreply. Defendant has filed its  
24 surreply.

25 Defendant argues that it would suffer undue prejudice from the  
26 addition of Mr. Baker because the Court's current deadlines  
27 preclude it from deposing him on issues specifically related to his  
28 adequacy as a class representative. However, Defendant

1 acknowledges that it had the opportunity to depose Mr. Baker "in  
2 his capacity as an opt-in plaintiff." Surreply 3. Defendant does  
3 not explain why an additional deposition of Mr. Baker would be  
4 necessary if he were a class representative.

5 Defendant also argues that adding Mr. Baker and a PAGA claim  
6 would be futile because doing so would "necessarily infuse the  
7 proceedings with individualized inquiries into whether the putative  
8 class members can maintain PAGA claims against R+L." Surreply 4.  
9 But this general argument could be said of any plaintiff or PAGA  
10 claim in a class action. On its face, the addition of Mr. Baker  
11 and a PAGA claim does not appear to make class certification  
12 improper. Defendant may renew its arguments in its opposition to  
13 Plaintiff's motion for class certification.

14 Accordingly, the Court GRANTS Plaintiff leave to amend his  
15 complaint to add Casey Baker as a named Plaintiff. (Docket No.  
16 196.) On October 8, 2010, Plaintiff filed a proposed amended  
17 complaint, which includes Mr. Baker as a named Plaintiff. The  
18 Court deems this document, lodged at Docket No. 225, the operative  
19 complaint in this action.

20 IT IS SO ORDERED.

21  
22 Dated: October 25, 2010



23 CLAUDIA WILKEN  
24 United States District Judge  
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