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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN BROCKMAN, an individual,

vs. Plaintiff,

BEST OVERNITE EXPRESS, INC., a
California Corporation; and DOES 1
through 10, inclusive,

Defendants.

CASE NO. 08cv0257-LAB (JMA)

**ORDER DECLINING TO
EXERCISE JURISDICTION OVER
SUPPLEMENTAL STATE
CLAIMS; AND**

**ORDER RE: STAY OF
PROCEEDINGS**

On February 11, 2008, Plaintiff filed his complaint in this action. No summons has been issued yet and Defendant has not yet made an appearance.

The complaint identified the existence of a federal question as the sole basis for this Court's exercise of jurisdiction. The complaint identifies one federal claim, for unpaid overtime wages under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 207. The remainder are claims under California state law: a claim for unpaid overtime, a claim for failure to provide state-mandated meal periods, a claim for failing to make meal period payments on time, and an claim under the California Bus. & Prof. Code § 17200 for unfair business practices. The alleged unfair business practices consist of failure to pay overtime wages and to provide required meal periods. The FLSA claim duplicates the state-law

1 overtime claim, and Plaintiff makes clear this is merely an alternative theory of recovering
2 the same money he alleges is owed under his state-law claim.

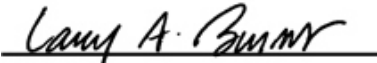
3 Although Plaintiff did not identify 28 U.S.C. § 1367, the supplemental jurisdiction
4 statute, as the source of jurisdiction over the state-law claims, no other basis for federal
5 jurisdiction appears on the face of the complaint.

6 The Court finds the four state-law claims "substantially predominate[] over the claim
7 . . . over which the [Court] has original jurisdiction" See § 1367(c)(2). Therefore,
8 pursuant to § 1367, the Court declines to exercise supplemental jurisdiction over any of the
9 California state-law claims.

10 Plaintiff is **ORDERED** to file proof of service. The Court **STAYS ALL FURTHER**
11 **PROCEEDINGS** in this matter as of the date of service. If Plaintiff wishes to pursue his
12 claims in state court, he is **ORDERED** to file a notice with this Court promptly after the final
13 disposition of those claims. If Plaintiff wishes to dismiss his state-law meal period claims
14 with prejudice and proceed with his overtime claim in this Court, he is directed to file a notice
15 so stating.

16 **IT IS SO ORDERED.**

17 DATED: February 13, 2008

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19 **HONORABLE LARRY ALAN BURNS**
20 United States District Judge

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