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

JENNIFER MEINTS, individually, and  
on behalf of all other members of the  
general public similarly situated,  
  
Plaintiff,  
  
vs.  
REGIS CORPORATION, a Minnesota  
Corporation,  
  
Defendant.

CASE NO. 09cv2061 WQH (CAB)  
ORDER

HAYES, Judge:

The matters before the Court are Plaintiff’s Motion to Lift Stay (Doc. # 21) and Defendant’s Motion to Stay Proceedings (Doc. # 22).

**BACKGROUND**

On September 21, 2009, Plaintiff initiated this action by filing a complaint. (Doc. # 1). The complaint is a proposed class action against Defendant for several alleged violations of the California Labor Code. *Id.* On November 30, 2009, Defendant filed an answer to the complaint. (Doc. # 7). On December 1, 2009, Defendant filed a Motion to Stay Proceedings on the grounds that there is a class action with many of the same claims pending against Defendant in the Central District of California. (Doc. # 13). The Court granted the motion on February 16, 2010 and stayed the case until June 14, 2010. (Doc. # 18). The Court held that a stay was appropriate because a pending settlement agreement in *Lopez v. Regis Corporation*, 08cv8221 RKG (CWx) (C.D. Cal.), a putative class action in the Central District of California

1 “may prevent Plaintiff from proceeding with this case as a class action as to any of her claims.”  
2 *Id.* at 5. The Court concluded that “allowing Plaintiff to proceed to class discovery” under  
3 these circumstances “would waste judicial resources and require Defendant to expend  
4 significant effort to comply with discovery requests in a case which is unlikely to result in a  
5 class certification.” *Id.* The Court further held that “[a]ny request for a further stay beyond  
6 June 14, 2010, shall be filed as a new motion.” (Doc. # 18). On April 13, 2010, Plaintiff filed  
7 her Motion to Lift Stay. (Doc. # 21). On April 19, 2010, Defendant filed its Motion to Stay  
8 Proceedings. (Doc. # 22).

### 9 **ALLEGATIONS OF THE COMPLAINT**

10 Plaintiff alleges claims on behalf of Defendant’s employees who were underpaid in  
11 violation of California law. (Doc. # 1 at ¶ 8). Plaintiff alleges claims for (1) violation of  
12 California Labor Code § 510 and § 1198 for failing to pay overtime; (2) violation of California  
13 Labor Code § 226.7 and § 512(a) for failing to pay meal period premiums; (3) violation of  
14 California Labor Code § 226.7 for failure to pay rest period premiums; (4) violation  
15 of California Labor Code § 2800 and § 2802 for failing to pay business expenses; (5) violation  
16 of California Labor Code § 1194, § 1197, and § 1197.1 for failure to pay minimum wages;  
17 (6) violation of California Labor Code §§ 201-202 for failure to timely pay wages upon  
18 termination; (7) violation of California Labor Code § 204 for failing to pay wages on time;  
19 (8) violation of California Labor Code § 226(a) for noncompliant wage statements; and  
20 (9) violation of California Labor Code § 17200. *Id.* at ¶ 25-91. Plaintiff proposes three  
21 subclasses of plaintiffs: (1) an unpaid wages subclass of all employees who received hourly  
22 or mixed hourly and commission income while working for Defendant at a store location in  
23 California from four years before the complaint was filed until the date of class certification;  
24 (2) a non-compliant wages subclass of all employees who received a wage statement from a  
25 year before the filing of the complaint until the date of class certification; and (3) an  
26 unreimbursed business expenses subclass of all employees who paid business-related expenses  
27 in California from four years before the complaint was filed until the date of class certification.  
28 *Id.*

1 Plaintiff alleges the following questions of law and fact are common to the class:  
2 (1) whether Defendant willfully violated the California Labor Code by “failure to pay wages,  
3 without abatement or reduction;” (2) whether Defendant required employees to work over  
4 eight hours per day, over twelve hours per day, or over 40 hours per week and failed to pay  
5 overtime; (3) whether Defendant required employees to work during meal periods without  
6 compensation; (4) whether Defendant required employees to work during rest periods without  
7 compensation; (5) whether Defendant failed to reimburse employees for business expenses  
8 incurred in the scope of their employment; (6) whether Defendant failed to pay minimum  
9 wages; (7) whether Defendant failed to report wages as required by California Labor Code  
10 § 226; (8) whether Defendant failed to pay employees all wages earned; (9) whether  
11 Defendant’s conduct was willful or reckless; (10) whether Defendant engaged in unfair  
12 business practices; and (11) damages.

### 13 **CONTENTIONS OF THE PARTIES**

14 Plaintiff contends that the case should not be further stayed because the proposed  
15 settlement in the *Lopez* class action which was previously pending in the Central District has  
16 been denied and the case has been dismissed. (Doc. # 21-1 at 2). Plaintiff attached orders  
17 from the *Lopez* case denying conditional class certification and dismissing the case. (Doc.  
18 # 21-2 at 7-14).

19 Defendant contends that two other pending putative class action lawsuits based on the  
20 same labor practices Plaintiff challenges which were filed before Plaintiff initiated this action  
21 require staying this case under the first-to-file rule. (Doc. # 22 at 6). One of the cases  
22 Defendant identifies is *Mook*, which had previously been consolidated with *Lopez* in the  
23 Central District of California, and was remanded to state court when *Lopez* was dismissed. *Id.*  
24 at 8. The other case Defendant identifies is *Manukyan*, which is pending in the Central District  
25 of California. *Id.* Defendant contends that the parties in this action and in the *Mook* and  
26 *Manukyan* actions are identical. *Id.* at 12. Defendant contends that the issues are  
27 “substantially similar” in all three cases, although Plaintiff raises claims as to meal and rest  
28 breaks that are not raised by *Mook* or *Manukyan*. *Id.*

1 Defendant further contends that Plaintiff’s claims about rest and meal breaks should be  
2 stayed pending the outcome of the California Supreme Court decision in *Brinker*, which will  
3 “decide the legal standard applicable to many of Plaintiff’s claims and will dictate what  
4 evidence is relevant to those claims . . . .” *Id.* at 15-16. Defendant contends that these claims  
5 should be stayed to avoid “substantial discovery and motion practice under the incorrect legal  
6 standard . . . .” *Id.* at 16.

7 In her opposition to Defendant’s Motion to Stay Proceedings, Plaintiff contends that the  
8 first-to-file rule does not apply because the actions are not identical. (Doc. # 27 at 8). Plaintiff  
9 contends that her “meal and rest break claims and unreimbursed business expenses subclass  
10 raise[] factual and legal claims unlike any in either the *Mook* or the *Manukyan* actions.” *Id.*  
11 Plaintiff contends that even if a stay is appropriate as to her other claims, her claims related to  
12 meal and rest breaks and unreimbursed business expenses should not be stayed because those  
13 issues will not be addressed by the other previously filed lawsuits. *Id.* Plaintiff notes that  
14 Defendant has reached a settlement agreement in *Mook* after a mediation in which Plaintiff  
15 participated, but contends that this action should proceed “unless and until the proposed  
16 settlement is approved and finalized . . . .” *Id.* at 9.

17 Plaintiff contends that a stay pending the resolution of the appeal in *Brinker* is  
18 inappropriate because *Brinker* only addresses some of her claims. *Id.* at 11. Plaintiff contends  
19 that she will suffer harm if the case is stayed while the California Supreme Court is  
20 adjudicating *Brinker* because it will delay conducting discovery, which may prejudice  
21 Plaintiff’s case. *Id.* Plaintiff contends that a stay will “likely deplete the number of witnesses  
22 available to Plaintiff’s counsel to interview and the corresponding evidence they may have,  
23 since over time, the witnesses are more apt to move and discard potentially relevant  
24 documents.” *Id.*

25 In its reply, Defendant contends that the settlement agreement reached in a mediation  
26 held on May 10, 2010 in *Mook* will bar Plaintiff from “continuing most or all of her claims  
27 under the doctrines of estoppel and res judicata.” (Doc. # 28 at 2). Defendant contends that  
28 Plaintiff was a participant in the *Mook* mediation and that Plaintiff will have an opportunity

1 to object to the settlement agreement in *Mook*. *Id.* at 3, 5. In an attached declaration,  
2 Defendant's counsel states "on or before June 28, 2010, counsel for Mook . . . will seek Judge  
3 Bauer's approval of the mediated settlement agreement via a motion for preliminary approval  
4 to be heard on that date. If Judge Bauer approves the settlement, all of Meints' claims in her  
5 putative class action, including any claims for missed meal and rest breaks and failure to  
6 reimburse employees for business expenses, will be included in the class settlement." (Doc.  
7 28-1 at 2.

### 8 ANALYSIS

9 The stay that the Court previously granted in this case expired on June 14, 2010. (Doc.  
10 # 18 at 5). Plaintiff's Motion to Lift Stay is denied as moot.

11 As was the case with the *Lopez* action, there is significant overlap between Plaintiff's  
12 claims in this case and the claims being raised in *Mook*, which was filed on December 21, 2008  
13 in the Superior Court of California for the County of San Diego. *See* Doc. # 22-4. Both  
14 Plaintiff in this case and the plaintiff in *Mook* allege claims under California law for unpaid  
15 overtime, unpaid minimum wages, failure to timely pay wages upon termination, failure to  
16 timely pay wages during employment, and unfair competition. *Compare* Doc. # 1 (Plaintiff's  
17 Compl.) with Doc. # 22-4 at 36-39 (Compl. in *Mooks*). Plaintiff alleges claims related to rest  
18 and meal breaks and unpaid business expenses which are not alleged in *Mooks*, but the  
19 proposed settlement in *Mooks* would release Defendant from further liability for all claims  
20 under the Fair Labor Standards Act and the California Labor Code for the entire statute of  
21 limitations period. A motion to approve the proposed settlement is currently pending before  
22 the state court adjudicating *Mooks*. If the *Mooks* settlement is approved by the court, it is  
23 likely to prevent Plaintiff from proceeding with this case as a class action as to any of her  
24 claims. Allowing Plaintiff to proceed to class discovery in this case when a settlement  
25 potentially barring her class action is pending would waste judicial resources and require  
26 Defendant to expend significant effort to comply with discovery requests in a case which is  
27 unlikely to result in a class certification. The motion to stay is granted. The case is stayed  
28 until October 25, 2010.

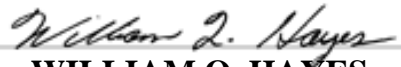
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**ORDER**

IT IS HEREBY ORDERED that:

- (1) Plaintiff's Motion to Lift Stay (Doc. # 21) is **DENIED AS MOOT**.
- (2) Defendant's Motion to Stay Proceedings (Doc. # 22) is **GRANTED**.
- (3) The case is stayed until October 25, 2010. On October 25, 2010, the parties shall submit a report regarding the status of *Mooks v. Regis Corp.*, 37-2008-00098337-CU-DE-CTL (Super. Ct. San Diego, Cal.). Any request for a further stay beyond October 25, 2010 shall be filed as a new motion.

DATED: August 2, 2010

  
**WILLIAM Q. HAYES**  
United States District Judge