

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOLIMAN EID,

Plaintiff,

v.

MICHAEL STAPLETON ASSOCIATES,
LTD,

Defendant.

Case No.: 3:17-cv-02456

**ORDER GRANTING DEFENDANT’S
MOTION TO STAY**

Pending before the Court is Defendant Michael Stapleton Associates, LTD (“Defendant”) motion to stay. Pursuant to Civil Local Rule 7.1(d)(1), the Court decides the matter on the papers submitted and without oral argument. For the foregoing reasons, the Court **GRANTS** Defendant’s motion.

//
//
//
//
//
//
//
//

1 **I. BACKGROUND**

2 Defendant is a corporation that provides private security services. Among the
3 services offered by Defendant is bomb detection, a service that involves the use of dogs
4 trained to alert to the scent of explosives. For each bomb sniffing dog, Defendant
5 employs a handler. Handlers are responsible for handling, training, boarding, and feeding
6 the dogs.

7 On August 2, 2017, a handler employed by Defendant filed an amended class and
8 collective action complaint in the United States District Court for the Northern District of
9 Texas. (“Blackmon Complaint” [Doc. 15-2 Ex. B].) The Blackmon Complaint alleges
10 that Defendant and its Chief Executive Officer violated the Fair Labor Standards Act
11 (“FLSA”) 29 U.S.C. § 201, Cal. Lab. Code §§ 226, 510, 1194, and 2698 (“PAGA”); New
12 York Codes, Rules, and Regulations § 142-2.2, New York Lab. Law §§ 191, 193, 195(3),
13 198-c(2), and 663 by failing to pay all straight and overtime wages owed, failing to pay
14 minimum wages, failing to provide itemized wage statements, and failing to reimburse
15 expenses. (Id.) The central theory of the Blackmon Complaint is that Defendant did not
16 pay its dog handlers wages for all hours spent caring for the dogs or full reimbursement
17 for the expenses stemming therefrom. On January 30, 2018 the United States District
18 Court for the Northern District of Texas granted the parties’ joint motion to transfer the
19 Blackmon case to the United States District Court for the Southern District of New York.
20 (Fugazy Decl. [Doc. 15-2] ¶ 9.)

21 On July 18, 2017, ten other individuals employed by Defendant as dog handlers
22 filed a nearly identical complaint in the United States District Court for the Southern
23 District of New York against Defendant and its CEO. (“Barret Complaint” [Doc. 15-2
24 Ex. C].) On September 20, 2017, another plaintiff filed another nearly identical
25 complaint in the United States District Court for the Southern District of New York
26 against Defendant and its CEO. (“Brown Complaint” [Doc. 15-2 Ex. D].) All parties in
27 the Blackmon, Barret, and Brown cases (collectively, the “New York Cases”) intend to
28 stipulate to the consolidation of the three cases into one. (Fugazy Decl. ¶ 9.)

1 On February 5, 2018, Plaintiff Soliman Eid (“Eid”) filed the instant case in the
2 Superior Court of California, County of San Diego. (Complaint [Doc. 1-2].) Like the
3 New York Cases, Eid’s Complaint also seeks recovery against Defendant for Defendant’s
4 alleged failure to pay its dog handlers wages for all hours spent caring for the dogs and
5 full reimbursement for all expenses stemming therefrom. On February 5, 2018,
6 Defendant filed the instant motion to stay this litigation under the “First to File Rule”
7 pending resolution of the New York Cases. (Mot. [Doc. 15].) Plaintiff opposes. (Opp’n
8 [Doc. 16].)

9
10 **II. DISCUSSION**

11 The power to stay proceedings stems from the Court’s inherent power to control its
12 docket. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). A stay is therefore a matter of
13 judicial discretion. *Nken v. Holder*, 556 U.S. 418, 433–34 (2009). The party seeking a
14 stay bears the burden of establishing that the facts and circumstances of the case warrant
15 a stay. *Id.*

16 Here, Defendant seeks a stay under the First to File Rule. The First to File Rule is
17 intended to promote the efficient use of judicial resources and consistency in rulings.
18 *Kohn Law Group, Inc. v. Auto Parts Mfg. Mississippi, Inc.*, 787 F.3d 1237, 1239–40 (9th
19 Cir. 2015) (internal citations omitted.) Thus, a stay is appropriate under the First to File
20 Rule if there is (1) a prior filed complaint in another district court involving substantially
21 the same (2) parties and (3) issues. *Id.*

22 Plaintiff concedes that the first two factors favor a stay because the Blackmon and
23 Barret cases were filed first, Defendant is named in each case, and the proposed
24 plaintiffs’ classes are substantively identical. (Opp’n 5,6.) There is also no dispute as to
25 the fact that there is a near complete overlap on the issue of unpaid wages. (*Id.*) Rather,
26 the only grounds upon which Plaintiff opposes this motion to stay is that, unlike the
27 instant case, the New York cases do not “seek compensation for unreimbursed expenses
28 on behalf of California [dog handlers]. (Opp’n 5:27–6:2.)

1 Plaintiff's argument is unpersuasive. It is true that the New York cases do not
2 include any California Labor Code § 2802 or derivative PAGA claims for failure to
3 reimburse expenses. That said, the Barrett case does allege that "[d]uring the course of
4 their employment, plaintiffs incurred significant expense ... [from] housing and
5 maintaining the dogs." (Barret Compl. ¶ 76.) For these incurred expenses, Barrett seeks
6 recovery under New York Labor Law § 198-c(2) (providing for employee recovery of
7 unreimbursed expenses from employers). (Barred Compl. ¶ 103.) That the cases seek
8 recovery for the same conduct under different statutes does not preclude a finding of
9 substantial similarity on the issues. *Adoma v. Univ. of Phoenix, Inc.*, 711 F. Supp. 2d
10 1142, 1149 (E.D. Cal. 2010). Under each statute, the central issue is the same: whether
11 the dog handlers incurred expenses in connection with their employment for which
12 Defendant failed to compensate them.

13 Because the New York Cases were filed first and involve the same parties and
14 substantially the same issues, the Court finds it proper to exercise its discretion and stay
15 this litigation pursuant to the First to File Rule. This result is certain to conserve scarce
16 judicial resources and ensure consistency in rulings. Further, it is unlikely to cause any
17 prejudice to Plaintiff. In the event the resolution of the New York Cases does not
18 completely resolve Plaintiff's claims, he may then proceed with them in this Court.

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 **CONCLUSION & ORDER**

2 For the foregoing reasons, Defendant's motion to stay pursuant to the First to File
3 Rule is **GRANTED** as follows:

- 4 • This case is stayed until further order from the Court.
- 5 • The parties shall notify the Court within seven days of the entry of judgment in any
6 of the New York Cases.
- 7 • The parties shall submit a joint status report to the Court once every ninety days
8 from the entry of this order.

9 **IT IS SO ORDERED.**

10 Dated: April 30, 2018

11 
12 Hon. M. James Lorenz
13 United States District Judge