

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VALERIE SAMPSON and DAVID
RAYMON, on their own behalf and on the
behalf of all other similarly situated,

Plaintiff,

v.

KNIGHT TRANSPORTATION, INC., an
Arizona corporation, KNIGHT
REFRIGERATED, LLC, an Arizona limited
liability company and KNIGHT PORT
SERVICES, LLC, an Arizona limited liability
company,

Defendant.

CASE NO. 17-0028-JCC

ORDER

This matter comes before the Court on the Washington State Department of Labor and Industries' ("L&I") motion for leave to file an *amicus curiae* brief (Dkt. No. 110). Having thoroughly considered the motion, the parties' briefing, and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motion for the reasons explained herein.

I. BACKGROUND

The Court set forth the underlying facts of this case in a previous order and will not repeat them here. (*See* Dkt. No. 37.) In response to Defendants' motion for partial summary judgment, Plaintiffs asked the Court to certify a question to the Washington State Supreme Court

1 to determine whether their “on duty, not driving” claim was cognizable under Washington law.
2 (Dkt. No. 80 at 9.) The Court certified the following question: “Does the Washington Minimum
3 Wage Act [(“MWA”)] require non-agricultural employers to pay their piece-rate employees per
4 hour for time spent performing activities outside of piece-rate work?” (Dkt. No. 92 at 17.) The
5 Washington Supreme Court answered “no,” holding that “WAC 296-126-021 implements the
6 MWA and allows employers to use workweek averaging to measure compliance with the MWA
7 for nonagricultural workers paid on a piecework basis.” *Sampson v. Knight Transportation, Inc.*,
8 448 P.3d 9, 17 (Wash. 2019); (Dkt. No. 108 at 2). Plaintiffs’ motion for class certification is
9 pending before the Court for consideration, and the parties have supplied supplemental briefing
10 addressing the Washington Supreme Court’s answer to the certified question. (See Dkt. Nos.
11 108, 109.) L&I now moves for leave to file an *amicus* brief concerning the impacts on
12 Washington law of a recent Federal Motor Carrier Safety Administration (“FMCSA”) decision
13 regarding a California labor law. (Dkt. No. 110 at 1–2.)

14 **II. DISCUSSION**

15 District courts have “broad discretion” regarding the appointment of *amici*. *Hoptowit v.*
16 *Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982). District courts frequently welcome *amicus* briefs from
17 non-parties “concerning legal issues that have potential ramifications beyond the parties directly
18 involved.” *Skokomish Indian Tribe v. Goldmark*, Case No. C13-5071-JLR, Dkt. No. 91 at 1
19 (W.D. Wash. 2013) (quoting *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1064
20 (7th Cir. 1997)). The Ninth Circuit has said “there is no rule that *amici* must be totally
21 disinterested.” *Funbus Sys., Inc. v. State of Cal. Pub. Utils. Comm’n*, 801 F.2d 1120, 1125 (9th
22 Cir. 1986) (citation omitted); *See Hoptowit*, 682 F.2d at 1260 (affirming district court’s
23 appointment of *amicus curiae*, although *amicus* entirely supported only one party’s arguments).

24 L&I has submitted a motion for leave to file an *amicus* brief to provide Washington’s
25 interpretation of the labor laws at issue in this case. L&I asserts that leave to file an *amicus* brief
26 is appropriate “based on the interest and unique perspective that L&I can provide in these

1 circumstances.” (Dkt. No. 110 at 3.) L&I is the Washington State agency that enforces laws
2 respecting working conditions and wages of employees of business and industry in the state. (*See*
3 *id.*); Wash. Rev. Code § 43.22.270(4). These regulations encompass Washington’s rest break
4 rules, which are central to this case. (Dkt. No. 110 at 3.) In its proposed *amicus* brief, L&I opines
5 that the FMCSA decision preempts California’s meal-and-rest break laws as applied to certain
6 drivers, but it does not apply to Washington law under the standards set forth in 49 U.S.C. §
7 31141. (Dkt. No. 110-1 at 1–3.) That statute gives the Secretary of Transportation power to
8 preempt a particular state regulation “after applying statutory standards to that regulation.” (*Id.* at
9 8.)

10 Plaintiffs support L&I’s motion for leave to file an *amicus* brief in the event “the Court
11 finds it necessary to analyze the merits” of Plaintiffs’ claim for class certification. (Dkt. No. 113
12 at 1.) Defendants argue that the FMCSA preemption determination regarding California law
13 should be applicable to similar laws in Washington State. (Dkt. No. 112 at 8–9). Defendants
14 argue that L&I’s *amicus* brief “adds nothing,” attempts to “opine on the preemptive effect of a
15 federal statute it does not administer,” and is duplicative of arguments made by Plaintiffs. (*Id.* at
16 7.) Defendants contend that L&I’s arguments are meritless because the Washington laws at issue
17 are “substantially similar to California’s and are thus preempted” for the same reason. (*Id.* at 7.)
18 Defendants state that L&I’s *amicus* brief does not convey the arguments of an impacted
19 individual but rather “reiterates the same exact arguments made by Plaintiffs.” (*Id.* at 8.)
20 Defendants also assert that L&I’s brief addresses only the preemptive force of the FMCSA
21 determination and does not provide “particular expertise and insight” on applicable Washington
22 labor laws. (Dkt. No. 110-1 at 8.)

23 A determination regarding FMCSA’s effect on Washington labor law is likely to impact
24 parties outside the immediate litigation as these laws apply to all applicable Washington business
25 and industry, not just these parties. L&I’s informed position on the effects of the FMCSA
26 determination on Washington’s labor laws and regulations may prove helpful to the Court.

1 Therefore, the motion for leave to file an amicus brief is GRANTED.

2 **III. CONCLUSION**

3 For the foregoing reasons, the motion for leave to file an *amicus curiae* brief (Dkt. No.
4 110) is GRANTED. The Clerk is directed to RENOTE the motion for class certification (Dkt.
5 No. 52) for May 4, 2020.

6 DATED this 4th day of May 2020.

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10 John C. Coughenour
11 UNITED STATES DISTRICT JUDGE
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