UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. EDCV-14-776-MWF (VBKx) **Date: August 27, 2014**
Title: Trinidad Herrera, et al. -*v*- CarMax Auto Superstores California, LLC

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:	Court Reporter:
Rita Sanchez	Not Reported
Attorneys Present for Plaintiff:	**Attorneys Present for Defendant:**
None Present	None Present

Proceedings (In Chambers): ORDER DENYING DEFENDANT'S MOTION TO ENFORCE JUDGMENT AND ENJOIN PLAINTIFFS FROM PROSECUTING STATE COURT ACTION [13]

Before the Court is the Motion to Enforce Judgment and Enjoin Plaintiffs from Prosecuting State Court Action (the "Motion"), filed by Defendant CarMax Auto Superstores California, LLC ("CarMax") on July 28, 2014. (Docket No. 33). The Court reviewed and considered the briefs on the Motion and held a hearing on **August 25, 2014**. For the reasons set forth below, the Motion is **DENIED**.

Background

On March 12, 2014, Plaintiffs Trinidad Herrera, Taroob Slmani (evidently erroneously captioned as Taroob Simani), and Luis Berregan, on behalf of themselves and others similarly situated, filed the Complaint in the Riverside County Superior Court (the "First Action"). (Notice of Removal Ex. A (Docket No. 3)). On April 17, 2014, CarMax removed the Action pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d). (Docket No. 1).

The Complaint brings claims as representative of a putative class (the "Class") of "[a]ll current and former painters, detailers, [and] mechanics" employed by CarMax during the four years prior to filing the Complaint. (Compl. ¶ 10). Plaintiffs allege that CarMax's "uniform policies and procedures" violated California labor laws. (*Id.* ¶ 11). They allege specifically that CarMax failed to sufficiently compensate Plaintiffs

for all hours worked, including hours before and after their shift was scheduled to start, mandatory meetings during meal break periods, and hours spent not engaged in piece-rate work. (*Id.*).

On April 24, 2014, CarMax moved to dismiss this action and compel arbitration, based on dispute resolution agreements signed by each of the named Plaintiffs. (Docket No. 13). The Court held a hearing on the motion to dismiss and compel arbitration on June 23, 2014. On July 2, 2014, the Court compelled the claims in the Complaint to arbitration and dismissed this suit, reasoning that Plaintiff's claims were subject to the binding and enforceable dispute resolution agreements. (Docket No. 29).

On June 19, 2014, Plaintiffs filed a second action in the Riverside County Superior Court (the "Second Action"). The Second Action makes the same factual allegations as the Complaint in the First Action, but only seeks remedies under the Private Attorney General Act ("PAGA"), California Labor Code Section 2699. On July 22, 2014, the Complaint in the Second Action was amended to include a new named Plaintiff, Man Tang, who is not a party to this action.

The Motion argues that the Court's Order dated July 2, 2014, was a final adjudication on the merits that bars the litigation of the Second Action. Accordingly, the Motion requests that the Court enjoin Plaintiffs from litigating the Second Action. CarMax states that the Motion is only directed at enjoining the three Plaintiffs here, not Man Tang, from pursuing the Second Action. (Reply at 8).

Request for Judicial Notice

Defendant has submitted a Request for Judicial Notice in Support of the Motion (the "Request"). (Docket No. 35). Defendant requests that the Court take judicial notice of the Complaint and First Amended Complaint in the State Court Action. (*Id.* Exs. A-B).

"The court may judicially notice a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy

cannot reasonably be questioned." Fed. R. Evid. 201(b)(2). The Complaint and First Amended Complaint filed in the state court are not subject to reasonable dispute. The Court may take judicial notice of the fact of filing and the content of the papers, although it does not and need not take judicial notice of the facts alleged therein. Accordingly, the Request is **GRANTED**.

Motion to Enforce Judgment and Enjoin State Court Action

CarMax argues that this Court may enjoin Plaintiffs from pursuing the Second Action under the All Writs Act, 28 U.S.C. § 1651(a), the FAA, or the Court's inherent authority. Plaintiffs argue that the injunction is improper under the Anti-Injunction Act, 28 U.S.C. § 2283.

Injunction Under the Anti-Injunction Act

The Anti-Injunction Act provides:

> A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by an act of Congress, or where necessary in the aid of its jurisdiction, or to protect or effectuate its judgments.

28 U.S.C. § 2283. The third enumerated exception to the Anti-Injunction Act, permitting a federal court to enjoin state court proceedings to "protect or effectuate its judgments," is known as the relitigation exception.

The relitigation exception to the Anti-Injunction Act is governed by principles of equity, comity, and federalism, and it is to be construed strictly. *See Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 146, 108 S. Ct. 1684, 1689, 100 L. Ed. 2d 127 (1988) (holding that district court had improperly enjoined litigation of claim under Singapore law because the question of maritime law preemption was not actually litigated and decided by the district court); *Atl. Coast Line R. Co. v. Bhd. of Locomotive Eng'rs*, 398 U.S. 281, 286-87, 90 S. Ct. 1739, 26 L. Ed. 2d 234 (1970) (holding that district court

had improperly enjoined railroad from bringing claims in state court arguing that state law prohibited picketing after federal court had denied injunction as inappropriate under federal law).

Several circuit courts have interpreted the Supreme Court's *Chick Kam Choo* case to prohibit the issuance of an injunction under the relitigation exception unless the claim at issue had been "actually litigated" by the federal court. *See, e.g.*, *LCS Servs. v. Hamrick*, 925 F.2d 745, 749-50 (4th Cir. 1991) (holding that injunction was improperly issued because district court had not determined the precise claim at issue in the state court); *accord Delta Air Lines v. McCoy Rests., Inc.*, 708 F.2d 582 (11th Cir. 1983) ("A federal court's judgment is presumably far more threatened if the state proceeding involves the same issues than if it involves only issues that could have been, but were not, raised."). Plaintiff relies on this reasoning, arguing that the Second Action should not be enjoined because it raises issues on which no evidence was presented and the merits of which the Court did not consider.

The Ninth Circuit, however, has specifically rejected this limitation on the relitigation exception. In *Western Systems, Inc. v. Ulloa*, the Ninth Circuit disagreed with the majority of Circuits to consider the issue and held that the relitigation exception allows a district court to enjoin state litigation on the ground that it is barred by res judicata. 958 F.2d 864, 871 (9th Cir. 1992). And res judicata, the Circuit reasoned, rendered a prior judgment conclusive "not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose." *Id.* (quoting *Nevada v. United States*, 463 U.S. 110, 130, 103 S. Ct. 2906, 77 L. Ed. 2d 509 (1983)) (internal quotation marks omitted).

The *Ulloa* court did not establish a rule that a state court action must be enjoined if it is precluded by the district court's prior judgment. Rather, "[u]nder the compelling circumstances of th[at] case, [the court] conclude[d] that the principles announced in *Choo* are not disserved by the district court's injunction." *Id.* In *Ulloa*, the plaintiff brought a second complaint in a Guam court within an hour after the original federal case concluded after seventeen years of litigation. The second action

was based around the same nucleus of facts, so the district court was far more familiar with the applicable facts and law than the Guam court. The preclusion issues facing the Guam court were based in federal law. Under those circumstances, the Circuit held that the district court's injunction was proper. *Id.*

Ulloa, then, does not require the Court to issue an injunction against prosecution of state court proceedings solely because the claims pursued in state court are barred by res judicata. Indeed, the cases repeatedly remind the district court to resolve any doubts about the propriety of an injunction "in favor of permitting the state courts to proceed in an orderly fashion to finally determine the controversy." *Bechtel Petroleum v. Webster*, 796 F.2d 252, 253 (9th Cir. 1986) (holding that plaintiff had "failed to make the 'strong and unequivocal showing of relitigation' necessary to justify" an injunction under the Act); *see Merle Norman Cosmetics, Inc. v. Victa*, 936 F.2d 466, 468 (9th Cir. 1991) (affirming district court's decision to leave state-law question of preclusive effect of federal judgment to state court, rather than enjoin pending state court litigation). "[T]he fact that an injunction ***may*** issue under the Anti-Injunction Act does not mean that it ***must*** issue." *Chick Kam Choo*, 486 U.S. at 151 (emphasis in original).

None of the concerns guiding the *Ulloa* court's decision are present here. None of the substantive legal questions raised in the Second Action were before this Court. Although the parties and the underlying facts are the same between the two actions, this Court was never asked to render any decision on the substantive violations alleged in the Complaint; rather, the Court simply determined that all claims that were properly before it were required to be arbitrated. The Second Action presents the more difficult question, never considered by this Court, whether Plaintiffs' PAGA claims may be compelled to arbitration. Furthermore, the Court never considered the merits of Plaintiffs' underlying allegations of labor law violations.

All relevant issues in this action, save the discrete FAA issues, are matters of state law brought before this Court on diversity jurisdiction. Importantly, the parties agree that the issue of the preclusive effect of this Court's judgment is a question of California law. The state court is better positioned than this Court to answer the

preclusion question on the merits. *See Merle Norman Cosmetics*, 936 F.2d at 468 ("State courts are just as capable as federal courts in applying applicable law.").

The question whether an order compelling arbitration of claims of labor law violations can preclude claims for PAGA remedies arising from the same violations is a particularly sensitive question of state law that has not been thoroughly addressed in the state courts. The California Supreme Court continues to remind us that PAGA claims do not precisely overlap with their underlying Labor Code violations, because PAGA claims belong to the California Labor and Workforce Development Agency. Hence, under California law, a contractual waiver of the right to bring representative actions, including PAGA claims, frustrates PAGA's objectives and is unenforceable. *Iskanian v. CLS Transp. L.A., LLC*, 59 Cal. 4th 348, 383-84, 173 Cal. Rptr. 3d 289 (2014) (further holding that this prohibition on waiver of PAGA representative actions was not preempted by the FAA). And PAGA claims, although representative actions, need not be brought as class action suits, because the private plaintiff is essentially bringing a law enforcement action designed to protect the public. *Arias v. Superior Court*, 46 Cal. 4th 969, 986, 95 Cal. Rptr. 3d 588 (2009) (reviewing statutory text and legislative history of PAGA to hold that the Legislature intended that restrictions on class actions lawsuits should not apply to PAGA suits). Res judicata analysis will require determination of whether the First and Second Actions shared identical claims and identical parties. Given the developments in California law on the precise contours of PAGA, these questions would be best answered by the state courts.

And perhaps most importantly, the timing of these actions shows that there is no compelling reason to enjoin the Second Action. The First Action was dismissed mere months after it was filed. Had Plaintiffs sought leave to amend the Complaint to include PAGA claims, the Court surely would have granted it. Had CarMax complained of improper claim splitting prior to resolution of the motion to compel arbitration, the Court would have permitted the actions to be consolidated rather than requiring dismissal. *See Walton v. Eaton Corp.*, 563 F.2d 66, 71 (3d Cir. 1977) (supporting consolidation rather than dismissal of possibly duplicative actions, unless the court is concerned that the plaintiff is using duplicative complaints for the purpose of circumventing the rules pertaining to amendment of complaints), *cited approvingly*

in Russ v. Standard Ins. Co., 120 F.3d 988, 990 (9th Cir. 1997). There is simply no concern that Plaintiffs are attempting to improperly circumvent this Court's judgment or applicable procedural rules. Rather, Plaintiffs sought a state forum for their indisputably state-law PAGA claims.

That is not to say that Plaintiffs are entirely noble in attempting to split their claim in order to avoid federal jurisdiction over at least part of it. CarMax is correct that Plaintiffs have attempted to have their cake and eat it too.

Nevertheless, Plaintiffs are not seeking to circumvent this Court's judgment in any meaningful way. They simply wished to reserve certain state law claims for resolution in the state courts. Plaintiffs' actions are similar to those taken by the plaintiffs in *Atlantic Coast Line*, who sought relief in state court under state law after being denied the same relief in federal court under federal law. The Supreme Court held that the district court's injunction of the state court proceedings was improper, reasoning:

> While the railroad could probably have based its federal case on the pendent state law claims as well, it was free to refrain from doing so and leave the state law questions and the related issue concerning preclusion of state remedies by federal law to the state courts. Conversely, although it could have tendered its federal claims to the state court, it was also free to restrict the state complaint to state grounds alone. In short, the state and federal courts had concurrent jurisdiction in this case, and neither court was free to prevent either party from simultaneously pursuing claims in both courts.

Atl. Coast Line R. Co., 398 U.S. at 295.

Accordingly, under the circumstances of this case, an injunction is not necessary for this Court to "preserve and effectuate its judgments." 28 U.S.C. § 2283. Therefore, in exercise of its discretion and considering the principles of equity, comity, and federalism, the Court declines to issue the requested injunction.

Because the Court holds that the requested injunction should not issue under the relitigation exception to the Anti-Injunction Act, the Court does not render a decision on the merits of the res judicata issue.

Injunction Under the FAA, This Court's Inherent Authority, or the Parties' Contract

CarMax further argues that an injunction is proper under the FAA or this Court's inherent authority. Neither of these allows the Court to issue an injunction except within the parameters of the Anti-Injunction Act. *See Great Earth Companies, Inc. v. Simons*, 288 F.3d 878, 893-94 (6th Cir. 2002) ("Although the FAA requires courts to stay their own proceedings where the issues to be litigated are subject to an agreement to arbitrate, 9 U.S.C. § 3, it does not specifically authorize federal courts to stay proceedings pending in state courts." (citation and internal quotation marks omitted)); *Atl. Coast Line R. Co.*, 398 U.S. at 295 ("[A] federal court does not have inherent power to ignore the limitations of § 2283 and to enjoin state court proceedings merely because those proceedings interfere with a protected federal right or invade an area preempted by federal law, even when the interference is unmistakably clear."). The cases cited by CarMax simply hold that the Anti-Injunction Act does not necessarily prohibit a federal court from staying state court proceedings regarding the subject matter that the federal court has held must be arbitrated.

Finally, CarMax argues that the Dispute Resolution Rules and Procedures ("DRRP") prohibits Plaintiffs from bringing their claims in separate suits. Whether or not the DRRP so provides, the Anti-Injunction Act does not allow this Court to enjoin state court proceedings in order to effectuate an agreement between the parties.

Conclusion

The Motion is **DENIED**.

IT IS SO ORDERED.