

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Greist v. LendUS, LLC

Greist · No. 24-cv-02411-AMO · Decided June 6, 2025

SUMMARY

The United States District Court for the Northern District of California grants Plaintiffs’ motions to conditionally certify an FLSA collective action and for equitable tolling. The court finds substantial allegations that LendUS Loan Assistants and Loan Processors were subject to a common policy or practice involving unpaid overtime and declines to assess credibility or the merits at the preliminary certification stage. The court tolls the FLSA limitations period because docket congestion, motion sequencing, and litigation delays outside Plaintiffs’ control significantly narrowed the opt-in period.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Araceli Martinez-Olguin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 6, 2025
DOCKET	24-cv-02411-AMO
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for conditional certification of an FLSA collective action and equitable tolling of the statute of limitations for potential opt-in plaintiffs. The court resolved the motions on the briefs and granted both.
STANDARD OF REVIEW	At the preliminary FLSA certification stage, the court applies a lenient, plausibility-like standard requiring substantial allegations or a reasonable basis, supported where appropriate by declarations or limited evidence, that putative collective members are similarly situated. The court does not weigh evidence, resolve credibility, or decide the merits at this stage. Equitable tolling is applied sparingly when wrongful conduct or extraordinary circumstances beyond the plaintiffs' control prevent timely filing, with consideration of diligence, prejudice, and the interests of justice.
PRECEDENTIAL VALUE	unpublished district court order; persuasive value only

PARTIES

Barbara Greist, et al., Plaintiffs v. LendUS, LLC, et al., Defendants

TOPICS

flsa

class actions

statute of limitations

equitable relief

civil procedure

PRACTICE AREAS

employment law

wage and hour

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether plaintiffs satisfied the lenient preliminary-stage standard for conditional certification of an FLSA collective of Loan Assistants and Loan Processors who were not compensated for all overtime hours worked.
2. Whether the court should reject defendants' challenges based on credibility, merits evidence, individualized issues, lack of opt-in interest, and severance agreements at the conditional-certification stage.
3. Whether equitable circumstances beyond plaintiffs' control warranted tolling the FLSA statute of limitations for potential opt-in plaintiffs.
4. What period of tolling was appropriate and whether tolling should extend through the date notice is sent.
5. What procedures should govern the parties' meet-and-confer process and submission of proposed collective-action notice materials.

HOLDINGS

1. Plaintiffs satisfied the preliminary-stage standard for conditional certification because their allegations and declarations substantially alleged that LendUS Loan Assistants and Loan Processors were subject to a common policy or practice of discouraging overtime reporting and failing to pay overtime.
2. At the preliminary certification stage, the court will not weigh competing evidence, assess witness credibility, or resolve merits disputes concerning whether a widespread unlawful overtime practice existed.
3. The court declined to impose an additional requirement that plaintiffs show existing opt-in interest before conditional certification.
4. Equitable tolling was warranted because court scheduling, procedural sequencing, and delay associated with defendants' litigation decisions were circumstances beyond plaintiffs' control, and failure to toll would significantly prejudice potential opt-in plaintiffs.
5. The FLSA statute of limitations for potential opt-in plaintiffs is tolled from September 4, 2024, the date plaintiffs moved for conditional certification, through the date notice is sent to potential opt-ins.

KEY QUOTATIONS

“At this early stage of the litigation, the district court’s analysis is typically focused on a review of the pleadings but may sometimes be supplemented by declarations or limited other evidence.” (at 1-2)

“The court’s review at this stage is “lenient”—often articulated as requiring “substantial allegations” or a “reasonable basis”—and is “loosely akin to a plausibility standard, commensurate with the stage of the proceedings.”” (at 2)

“Since the purpose of conditional certification is to provide notice so other potential plaintiffs may opt in, such a requirement at this early stage would put the cart before the horse.” (at 6-7)

“Each of these circumstances were outside Plaintiffs’ control and resulted in a delay that would significantly contract the window of time for valid opt-in plaintiffs.” (at 13)

FACTUAL BACKGROUND

Plaintiffs alleged that LendUS and CrossCountry Mortgage maintained a policy or practice discouraging Loan Assistants and Loan Processors from reporting overtime and failed to compensate them for all overtime worked. Plaintiffs alleged that employees were assigned work that could not reasonably be completed within forty hours, were instructed to clock in and out according to scheduled shifts, and performed uncompensated off-the-clock work. Declarations described similar job duties, unpaid overtime, missed meal breaks, and supervisor or coworker communications indicating that unlogged overtime was expected. Delays caused by the court's docket, motion sequencing, and defendants' litigation decisions reduced the time available for potential opt-in plaintiffs to join the action.

PROCEDURAL HISTORY

Plaintiffs filed an FLSA collective action complaint on April 23, 2024, and filed an amended collective and class action complaint on June 14, 2024. The case involved motions to dismiss, set aside default, compel arbitration, and stay proceedings. Plaintiffs moved for conditional certification on September 4, 2024, and for equitable tolling on September 27, 2024. After resolving other motions in February and March 2025 and permitting a belated opposition following an April 24, 2025 case-management conference, the court granted conditional certification and equitable tolling, ordered the parties to meet and confer concerning notice, and required a joint filing or dispute letter by June 16, 2025.

DISPOSITION

other

CASES CITED

- Campbell v. City of Los Angeles, 903 F.3d 1090, 1100, 1101, 1109, 1115, 1117-18, 1119 (9th Cir. 2018)
- Saleh v. Valbin Corp., 297 F. Supp. 3d 1025, 1028 (N.D. Cal. 2017)
- Zeman v. Twitter, Inc., 747 F. Supp. 3d 1275, 1283 (N.D. Cal. 2024)
- Luksza v. TJX Companies, Inc., No. 2:11-CV-01359-JCM, 2012 WL 3277049, at *1, *11 (D. Nev. Aug. 8, 2012)

- Sanchez v. Sephora USA, Inc., No. 11-03396 SBA, 2012 WL 2945753, at *4 (N.D. Cal. July 18, 2012)
- Barrentine v. Arkansas-Best Freight System, Inc., 450 U.S. 728, 740 (1981)
- Carter v. XPO Last Mile, Inc., No. 16-CV-01231-WHO, 2016 WL 5680464, at *2 (N.D. Cal. Oct. 3, 2016)
- Labrie v. UPS Supply Chain Solutions, Inc., No. C08-3182 PJH, 2009 WL 1198593 (N.D. Cal. Apr. 27, 2009)
- Sanchez v. JMP Ventures, L.L.C., No. 13 CIV. 7264 KBF, 2014 WL 465542, at *1-*2 (S.D.N.Y. Jan. 27, 2014)
- Ali v. New York City Health & Hospitals Corp., No. 11 CIV. 6393 PAC, 2013 WL 1245543, at *3 (S.D.N.Y. Mar. 27, 2013)
- Mitchell v. Covance, Inc., 438 F. Supp. 3d 341, 346 (E.D. Pa. 2020)
- Palacios v. Boehringer Ingelheim Pharmaceuticals, Inc., No. 10-22398-CIV-UU, 2011 WL 6794438, at *4 (S.D. Fla. Apr. 19, 2011)
- Silverman v. SmithKline Beecham Corp., No. CV 06-7272, 2007 WL 6344674, at *2 (C.D. Cal. Oct. 15, 2007)
- Hargrove v. Sykes Enterprises, Inc., No. CIV. 99-110-HA, 1999 WL 1279651, at *4 (D. Or. June 30, 1999)
- Deatrick v. Securitas Security Services USA, Inc., No. 13-CV-05016-JST, 2014 WL 5358723, at *4 (N.D. Cal. Oct. 20, 2014)
- Herrera v. Command Security Corp., 837 F.3d 979, 985 (9th Cir. 2016)
- Burnett v. New York Central Railroad Co., 380 U.S. 424 (1965)
- Young v. United States, 535 U.S. 43, 49 (2002)
- Partlow v. Jewish Orphans' Home of Southern California, Inc., 645 F.2d 757, 761 (9th Cir. 1981)
- Stoll v. Runyon, 165 F.3d 1238, 1242 (9th Cir. 1999)
- Woods v. Vector Marketing Corp., No. C-14-0264 EMC, 2015 WL 1198593, at *6-*7 (N.D. Cal. Mar. 16, 2015)
- Irwin v. Department of Veterans Affairs, 498 U.S. 89, 96 (1990)
- Lewis v. Wells Fargo & Co., 669 F. Supp. 2d 1124, 1129 (N.D. Cal. 2009)
- Hightower v. JPMorgan Chase Bank, N.A., No. 11-CV-1802 PSG, ECF 43 at 4 (C.D. Cal. Mar. 2, 2011)
- Coppernoll v. Hamcor, Inc., No. 16-CV-05936-WHA, 2017 WL 1508853, at *4 (N.D. Cal. Apr. 27, 2017)
- Hughes v. S.A.W. Entertainment, Ltd., No. 16-CV-03371, 2019 WL 3979592, at *1 (N.D. Cal. Aug. 23, 2019)
- Pardini v. Mi Casa Su Casa LLC, No. CV-22-00796-PHX-MTL, 2023 WL 2534158 (D. Ariz. Mar. 15, 2023)
- Eyo v. Ace High Marketing, LLC, No. 1:20-CV-1018-AT, 2020 WL 8224928 (N.D. Ga. Nov. 23, 2020)

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