

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Padilla v. Western Traffic Control, Inc.

Padilla · No. 25-cv-07642-RS · Decided October 20, 2025

SUMMARY

The Northern District of California granted in part Western Traffic Control, Inc.’s motion to dismiss claims brought by Elizabeth Padilla and Armando Bernal under California labor law and PAGA. The court held that the plaintiffs’ overtime and meal- and rest-period claims were preempted under section 301 of the Labor Management Relations Act and dismissed them for failure to allege exhaustion of the collective bargaining agreement’s grievance procedures. The court declined to dismiss the remaining claims on preemption grounds and granted leave to amend.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Richard Seeborg
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 20, 2025
DOCKET	25-cv-07642-RS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs filed a representative California Private Attorneys General Act action and derivative Unfair Competition Law claim in California Superior Court. Defendant removed the action to federal court and moved to dismiss under the collective bargaining agreement's federal preemption and grievance-arbitration provisions.
STANDARD OF REVIEW	On a motion to dismiss under Federal Rule of Civil Procedure 12(b) (6), the court accepts factual allegations as true and construes the pleadings in the light most favorable to the nonmoving party, while requiring sufficient factual allegations to state a plausible claim. The same standard applies to a Rule 12(c) motion for judgment on the pleadings.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive but not precedential outside the case.

PARTIES

Elizabeth Padilla, Armando Bernal, Plaintiffs and similarly situated persons v. Western Traffic Control, Inc.

TOPICS

labor law

collective bargaining

wage and hour

motions to dismiss

employment law

PRACTICE AREAS

labor law

employment law

civil procedure

contracts

QUESTIONS PRESENTED

1. Whether Plaintiffs' California labor-law claims were preempted under Section 301 of the Labor Management Relations Act because they arose from or required interpretation of the collective bargaining agreement.
2. Whether the CBA satisfied California Labor Code section 514 so that the overtime and meal-and-rest-period claims were governed by the agreement and subject to Section 301 preemption.
3. Whether the CBA satisfied California Labor Code section 204 so that the timely-wage-payment claims were governed by the agreement and preempted.
4. Whether the preemption of certain PAGA claims extended to the entire PAGA action.
5. Whether the preempted overtime and meal-and-rest-period claims had to be dismissed because Plaintiffs failed to allege exhaustion of the CBA's mandatory grievance procedures.

HOLDINGS

1. The claims concerning minimum wages, accurate wage statements, indemnification for necessary expenditures, and interest on deposits were not preempted under Section 301 because they were based on rights conferred by California law and Defendant identified no interpretive dispute requiring construction of the CBA.
2. The overtime and meal-and-rest-period claims were preempted under Section 301 because the CBA expressly governed wages, hours, and working conditions, provided premium overtime rates, and provided regular hourly rates exceeding 130 percent of the state minimum wage as required by California Labor Code section 514.
3. The timely-wage-payment and related penalty claims were not preempted because the CBA permitted written alternative payment arrangements that might not satisfy California Labor Code section 204.
4. Preemption of the overtime and meal-and-rest-period claims did not extend to the remaining PAGA claims merely because all claims were brought in one PAGA action.
5. The overtime and meal-and-rest-period claims had to be dismissed because Plaintiffs did not allege that they attempted to exhaust the CBA's mandatory grievance and arbitration procedures.

KEY QUOTATIONS

“Section 301 preempts a plaintiff’s state law claim only where the claim (1) “arises entirely from” a collective bargaining agreement or (2) “requires interpretation of” the agreement.” (Section IV.A)

“Since Plaintiffs here fail to allege that they followed the required grievance procedures, their claims regarding overtime pay and meal and rest periods must be dismissed.” (Section IV.B.ii)

FACTUAL BACKGROUND

Plaintiffs were former employees of Western Traffic Control, Inc., dispatched by a union to work as journeymen and apprentices in 2024. Their employer and union were parties to a collective bargaining agreement containing wage, hour, working-condition, grievance, and binding-arbitration provisions. Plaintiffs alleged violations involving minimum and overtime wages, meal and rest periods, wage statements, timely wage payments and penalties, expense indemnification, deposit interest, and related California labor-law claims, but did not allege that they pursued the CBA's grievance procedures.

PROCEDURAL HISTORY

Plaintiffs filed suit in California Superior Court on July 8, 2025. Defendant removed the action to the Northern District of California on September 8, 2025, and moved to dismiss all claims. The court granted the motion in part, dismissing the overtime and meal-and-rest-period claims with leave to amend while declining to dismiss the remaining claims on Section 301 preemption grounds.

DISPOSITION

dismissed

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Dworkin v. Hustler Magazine, Inc., 867 F.2d 1188, 1192 (9th Cir. 1989)
- UMG Recordings, Inc. v. Shelter Capital Partners LLC, 718 F.3d 1006, 1014 (9th Cir. 2013)
- Knieval v. ESPN, 393 F.3d 1068, 1072 (9th Cir. 2005)
- Franchise Tax Board v. Construction Laborers Vacation Trust for Southern California, 463 U.S. 1, 23 (1983)
- Renteria-Hinojosa v. Sunsweet Growers, Inc., 150 F.4th 1076 (9th Cir. 2025)
- Alaska Airlines Inc. v. Schurke, 898 F.3d 904, 920-21 (9th Cir. 2018) (en banc)
- Burnside v. Kiewit Pacific Corp., 491 F.3d 1053, 1059 (9th Cir. 2007)
- Kobold v. Good Samaritan Regional Medical Center, 832 F.3d 1024, 1032 (9th Cir. 2016)
- Hernandez v. Pacific Underground Construction, Inc., No. 25-CV-00489-PCP, 2025 WL 2301747 (N.D. Cal. Aug. 11, 2025)
- Cramer v. Consolidated Freightways, Inc., 255 F.3d 683, 692 (9th Cir. 2001), as amended (Aug. 27, 2001)
- Renteria-Hinojosa v. Sunsweet Growers, Inc., No. 2:23-CV-01413-DJC-DB, 2023 WL 6519308, at *4 (E.D. Cal. Oct. 5, 2023)

- *Huffman v. Pacific Gateway Concessions LLC*, No. 19-CV-01791-PJH, 2019 WL 2563133, at *6 (N.D. Cal. June 21, 2019)
- *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639, 654 (2022), reh'g denied, 143 S. Ct. 60 (2022)
- *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. 151, 163 (1983)
- *Republic Steel Corp. v. Maddox*, 379 U.S. 650, 652 (1965)
- *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 220-21 (1985)
- *Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 985-86 (9th Cir. 2007)
- *Seid v. Pacific Bell, Inc.*, 635 F. Supp. 906, 909 (S.D. Cal. 1985)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 NORTHERN DISTRICT OF
CALIFORNIA 9 ELIZABETH PADILLA, et al., 10 Case No. 25-cv-07642-RS Plaintiffs, 11 v.
ORDER GRANTING IN PART 12 MOTION TO DISMISS WESTERN TRAFFIC CONTROL,
INC., 13 Defendant. 14 15 I. INTRODUCTION 16 Defendant Western Traffic Inc.'s motion to
dismiss Plaintiffs' state labor law claims 17 hinges on a collective bargaining agreement.

Defendant argues that agreement triggers federal 18 preemption over all of Plaintiffs' claims;
requires compliance with internal grievance procedures 19 with which Plaintiffs have not pled
compliance; and waives Plaintiffs' rights to bring these claims. 20 Finding that some of Plaintiffs'
claims arise out of the collective bargaining agreement rather than 21 state law, they are preempted
by federal law and must be dismissed for failure to comply with the 22 collective bargaining
agreement.

Accordingly, Defendant's motion to dismiss is granted in part as 23 set forth below. 24 II.
BACKGROUND1 25 Plaintiffs Elizabeth Padilla and Armando Bernal, ("Plaintiffs") are former
employees of 26 Western Traffic Control, Inc. ("Defendant" or "Western Traffic"). Western Traffic
asserts that 27 1 Plaintiffs were represented by the Northern California District Council of
Laborers of the 2 Laborers' International Union of North America ("Laborer's Union").

Western Traffic and the 3 Laborer's Union have a Master Collective Bargaining Agreement
("CBA") which contains a 4 mandatory grievance and binding arbitration procedure applying to
disputes concerning wages, 5 hours, meal periods, rest periods, and other working conditions.

The CBA also outlines specific 6 rules for payment of wages, waiting time penalties, minimum
wage classifications, meal periods, 7 rest periods, overtime, and vacation pay. 8 In 2024 the
Laborers' Union dispatched Plaintiffs to work for Western Traffic in the traffic 9 control positions
of Journeyman and Apprentice. Plaintiffs allege that Defendant failed to pay 10 overtime and
minimum wages; provide meal and rest periods; make timely wage payments and 11 pay related
time penalties; provide accurate wage statements; indemnify employees for necessary 12
expenditures; and pay interest on deposits.

Plaintiffs also assert Defendant has violated 13 California's Unfair Competition Law ("UCL"). Plaintiffs do not allege that they brought these 14 contentions to Western Traffic for internal grievance and arbitration procedures required by the 15 CBA. 16 Instead, on July 8, 2025, Plaintiffs filed a complaint against Western Traffic as individuals 17 and on behalf of all others similarly situated in California Superior Court.

The complaint alleges a 18 representative Private Attorneys' General Act of 2004 ("PAGA") action for civil penalties under 19 California Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 and a derivative UCL 20 claim.

On September 8, 2025, Defendant filed a Notice of Removal to the Northern District of 21 California, San Francisco Division. Western Traffic now moves to dismiss all of Plaintiffs' claims. 22 III. LEGAL STANDARD 23 A complaint must contain a short and plain statement of the claim showing the pleader is 24 entitled to relief. Fed. R. Civ. P. 8(a). While "detailed factual allegations" are not required, a 25 complaint must have sufficient factual allegations to "state a claim to relief that is plausible on its 26 face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic v. Twombly*, 550 U.S. 544, 570 (2007)).

However, "[t]hreadbare recitals of the elements of a cause of action, supported 27 1 by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678. "[T]he same standard of 2 review applicable to a Rule 12(b) motion applies to its 12(c) analog" because the motions are 3 "functionally identical." *Dworkin v. Hustler Mag., Inc.*, 867 F.2d 1188, 1192 (9th Cir.

1989). 4 After the pleadings are closed, but early enough not to delay trial, a party may move for judgment on the pleadings. Fed. R. Civ. P. 12(c). Dismissal under Rules 12(b)(6) or 12(c) may be based on 5 either the "lack of a cognizable legal theory" or on "the absence of sufficient facts alleged" under 6 a cognizable legal theory. *UMG Recordings, Inc. v. Shelter Capital Partners LLC*, 718 F.3d 1006, 7 1014 (9th Cir.

2013) (internal quotation marks and citation omitted); *Dworkin*, 867 F.2d at 1192. 8 When evaluating such motions, courts "accept all factual allegations in the complaint as true and 9 construe the pleadings in the light most favorable to the nonmoving party." *Kniesel v. ESPN*, 393 10 F.3d 1068, 1072 (9th Cir. 2005). 11 IV. DISCUSSION 12 A. Section 301 Preemption 13 i. Legal Standard 14 Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185 15 ("Section 301") preempts "any state cause of action for violation of contracts between an 16 employer and a labor organization." *Franchise Tax Bd. v. Constr.*

Laborers Vacation Tr. for S. Cal., 463 U.S. 1, 23 (1983) (quotation marks omitted). "In other words, § 301 preemption 18 transforms a state law claim into a federal claim for the violation of a collective bargaining 19 agreement," *Renteria-Hinojosa v. Sunsweet Growers, Inc.*, 150 F.4th 1076, 1085 n.6 (9th Cir. 20 2025). Whether a claim is preempted by Section 301 is a two-step

inquiry: Section 301 preempts a 21 plaintiff's state law claim only where the claim (1) "arises entirely from" a collective bargaining 22 agreement or (2) "requires interpretation of" the agreement.

Alaska Airlines Inc. v. Schurke, 898 F.3d 904, 920–21 (9th Cir. 2018) (en banc). "[A] claim that 'involves a right conferred upon an 24 employee by virtue of state law' is not preempted at step one." *Renteria-Hinojosa*, 150 F.4th at 25 1089 (citing *Burnside v. Kiewit Pac. Corp.*, 491 F.3d 1053, 1059 (9th Cir. 2007)). At step two, a 26 claim arising from state law still may be preempted if it is "substantially dependent on analysis of 27 a collective bargaining agreement." *Kobold v. Good Samaritan Reg'l Med.*

Ctr., 832 F.3d 1024, 1 1032 (9th Cir. 2016). A claim is not substantially dependent on analysis of a collective bargaining 2 agreement when there is not "an active dispute over the meaning of contract terms. [A] 3 hypothetical connection between the claim and the terms of the CBA is not enough to preempt the 4 claim... nor is it enough that resolving the state law claim requires a court to refer to the CBA and apply its plain or undisputed language." See also *Renteria-Hinojosa*, 150 F.4th at 1089 (cleaned 5 up).

See also *Burnside v. Kiewit Pac. Corp.*, 491 F.3d 1053 (9th Cir. 2007). 6 In *Renteria-Hinojosa*, the Ninth Circuit held that claims related to minimum wages and 7 accurate itemized wage statements, among others, "arise... from 'rights conferred by [California] 8 state law'" and thus were not preempted under Section 301 by the collective bargaining 9 agreement. *Id.* (citing *Burnside*, 491 F.3d at 1059).² With regard to overtime wage and meal and 10 rest period claims, collective bargaining agreements govern rather than California Labor Code 11 sections 510 and 511—and thus the claims are preempted by Section 301—if "the agreements 12 expressly provide[] for the wages, hours of work, and working conditions of employees, and if the 13 agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of 14 pay for those employees of not less than 30 percent more than state minimum wage." *Cal. Lab.*

15 Code § 514. 16 With regard to untimely wage claims, collective "bargaining agreements govern, not 17 [California Labor Code] section 204, if the[agreements] provide for different pay arrangements" 18 that separately satisfy section 204. *Renteria-Hinjosa v. Sunsweet Growers, Inc.*, No. 2:23-CV- 19 01413-DJC-DB, 2023 WL 6519308, at *4 (E.D. Cal. Oct. 5, 2023), *aff'd sub nom.*

Renteria- 20 Hinojosa v. Sunsweet Growers, Inc., 150 F.4th 1076 (9th Cir. 2025) (citing *Cal. Lab. Code 204(c)- 21 (d)*). "The requirements of... section [204] [are] deemed satisfied by the payment of wages for 22 weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days 23 24 2 In a similar case *Hernandez v. Pac. Underground Constr., Inc* decided just before *Renteria- 25 Hinojosa*, all of the claims, including wage-and-hours, minimum wage, and expense reimbursement claims, were remanded after finding that they existed under state law

26 independently of the collective bargaining agreement, they did not depend on interpretation of the agreement, and thus they were not subject to Section 301 preemption.

No. 25-CV-00489-PCP, 27 2025 WL 2301747 (N.D. Cal. Aug. 11, 2025). 1 following the close of the payroll period.” Cal. Lab. Code Section 204(d). 2 As for preemption based on judicial waivers or grievance procedures set out in a collective 3 bargaining agreement, the Ninth Circuit has rejected soundly that basis for preemption.

In 4 *Renteria-Hinojosa*, it wrote, 5 Even assuming... [the] CBA waived *Renteria-Hinojosa*’s right to a judicial forum, and that she must therefore pursue her claims through grievance 6 arbitration, *Renteria-Hinojosa*’s claims do not “arise under” the CBA. Rather, her claims arise under state law. *Sunsweet* could have answered her 7 state law claims by arguing, as an affirmative defense, that the CBA dispute 8 resolution provisions preclude litigation in state court and by moving to compel arbitration... But the fact that a state court may need to interpret the 9 CBA to determine whether *Renteria-Hinojosa* can maintain her claims in state court does not change the state law nature of her claims... A state 10 court may therefore “look to the CBA to determine whether it contains a clear and unmistakable waiver of state law rights without triggering § 301 11 preemption.” 12 150 F.4th at 1092–93 (citing *Cramer v. Consol.*

Freightways Inc., 255 F.3d 683, 692 (9th Cir. 13 2001), as amended (Aug. 27, 2001)). 14 ii. Section 301 Preemption Analysis 15 Here, Plaintiffs claims relating to Defendant’s alleged failure to pay (1) minimum and (2) 16 overtime wages, (3) provide meal and (4) rest periods, (5) provide accurate wage statements, (6) 17 make timely wage payments and (7) pay related time penalties, (8) indemnify employees for 18 necessary expenditures, and (9) pay interest on deposits each sound in California labor law.

Dkt. 19 1-1, Complaint, ¶¶ 15-39.3 *Western Traffic* does not identify any interpretive dispute about a CBA 20 term that must be resolved. 21 22 23 24 3 Plaintiffs cite various sections of the California Labor Code, including but not limited to sections 210 (Penalty for Failure to Make Payments; Action for Recovery; Single Recovery), 222 25 (Withholding of Part of Wage), 223 (Payment of Less than Statutory or Contractual Wage Scale), 226 (Itemized Statements; Contents; Inspection and Copying of Records; Compliance with 26 Inspection Requests; Violations; Injunctive Relief; Limitation of Application and Liability; Exception to Showing Total Hours Worked); 510 (Day’s Work; Overtime; Commuting Time), 27 551 (One Day’s Rest in Seven), 552 (Maximum Consecutive Working Days).

1 1. Minimum Wage, Accurate Wage Statements, Failure to Indemnify, and Failure to 2 Pay Deposit Interest Claims 3 Under *Renteria-Hinojosa*, the claims related to minimum wages and accurate wage 4 statements have independent bases in state law and thus are not preempted by Section 301. See *Renteria-Hinojosa*, 150 F.4th at 1089. See also Cal. Lab. Code § 226 (regarding accurate itemized 5 wage statements).

For Plaintiffs' claims regarding failure to indemnify employees for necessary 6 expenditures and pay interest on deposits, Defendant's only argument is that the grievance 7 procedures trigger Section 301 preemption.

For the same reasoning as in *Renteria-Hinojosa*, this 8 argument fails. 150 F.4th 1076, 1092–93. 9
2. Overtime Pay and Meal and Rest Claims 10 The claims regarding overtime and meal and rest periods are preempted if the CBA 11 satisfies California Labor Code sections 514—by expressly providing for wages, hours worked 12 and working conditions and providing premium wage rates for all overtime hours and a regular 13 hourly rate of pay of at least 30% more than state minimum wage—“with respect to all covered 14 employees.” Cal. Lab.

Code § 514; *Renteria-Hinojosa v. Sunsweet Growers, Inc.*, No. 2:23-CV- 15 01413-DJC-DB, at *3 (citing *Huffman v. Pac. Gateway Concessions LLC*, No. 19-CV-01791-PJH, 16 2019 WL 2563133, at *6 (N.D. Cal. June 21, 2019)).

Here, the CBA satisfies sections 514 by 17 providing for wages, hours worked, and working conditions as well as premium overtime rates 18 and hourly wage rates greater than 130% of the state minimum for all covered employees. See 19 Dkt. 8-2, Ex. D, Northern California AGC/Laborers Master Agreement 2022-2027 (“Collective 20 Bargaining Agreement”), Sections 10, 18, 20(A); Dkt.

8-2, Ex. F, Laborers Wage & Fringe 21 Benefit Rates. Accordingly, the claims relating to overtime pay and meal and rest periods arise 22 from the CBA rather than state law and are preempted by Section 301. 23 3. Timely Wage Payment and Penalty Claims 24 Claims regarding timely wage payments are preempted if the CBA provides for different 25 wage arrangements that satisfy section 204 of the California Labor Code.

Cal. Lab. Code Section 26 204(c)-(d). However, the CBA here does not. The CBA sets out a wage arrangement in which 27 “[e]ach employee shall be paid wages in full each week before or at quitting time on the Individual 1 Employer’s regular pay day unless specific arrangements to the contrary are made in writing 2 between the Individual Employer and appropriate Local Union of the Union.” Dkt.

8-2, Ex. D., 3 Collective Bargaining Agreement, Section 10(A). See also Dkt. 8, Defendant’s Motion to Dismiss, 4 at 10. Since the CBA allows for other arrangements made in writing which may not satisfy section 204, section 204(c)’s exemption does not apply, the untimely wage claims sound in state law 5 rather than the CBA, and Section 301 preemption is not triggered.

6 4. Preemption of the Entire PAGA Action 7 “[A] preemption determination as to one PAGA claim” does not “appl[y] to the remaining 8 PAGA claims simply because they share the same statutory cause of action.” See *Renteria- 9 Hinojosa*, 150 F.4th at 1095. “[A] PAGA action asserting multiple code violations affecting a 10 range of different employees does not constitute

“a single claim” in even the broadest possible 11 sense.’” *Id.* (citing *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639, 654, (2022) (citation 12 omitted), reh’g denied, — U.S. —, 143 S.Ct.

60, 213 L.Ed.2d 1145 (2022)). Accordingly, the 13 remaining alleged violations of California labor law are not preempted even though they are 14 brought together under Plaintiffs’ PAGA action with their preempted overtime pay and meal and 15 rest period claims. 16 B. Overtime Pay and Meal and Rest Claims Barred by Failure to Follow CBA 17 Grievance Procedures 18 As discussed above, only Plaintiffs’ state law claims regarding overtime pay and meal and 19 rest periods are preempted by Section 301.

Section 301 provides that “[s]uits for violation of 20 contracts between an employer and a labor organization” are governed by federal substantive law. 21 29 U.S.C. § 185(a); *DelCostello v. International Broth. of Teamsters*, 462 U.S. 151, 163 (1983). 22 i. Exhaustion Requirements Under Federal Labor Law 23 “As a general rule in cases to which federal law applies, federal labor policy requires that 24 individual employees wishing to assert contract grievances must attempt use of the contract 25 grievance procedure agreed upon by employer and union as the mode of redress.” *Republic Steel 26 Corp. v. Maddox*, 379 U.S. 650, 652, 85 S.Ct.

614, 13 L.Ed.2d 580 (1965). “Where, as here, the 27 court converts an employee’s state law claim into a § 301 claim, the [federal] exhaustion 1 requirement applies to the converted claim.” *Renteria-Hinojosa*, 150 F.4th at 1086 n.7 (citing 2 (*Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 220-21 (1985); *Kobold v. Good Samaritan Reg’l 3 Med. Ctr.*, 832 F.3d 1024, 1036–37 (9th Cir.

2016)). 4 Plaintiffs “must first attempt to exhaust any mandatory or exclusive grievance procedures provided in the agreement.” *Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 985–86 (9th Cir. 5 2007). The “failure to exhaust contractually mandated procedures precludes judicial relief for 6 breach of the collective bargaining agreement[.]” *Id.* at 986.

Accordingly, a plaintiff must allege in 7 the complaint that they exhausted the grievance procedures. See, e.g., *Renteria-Hinjosa v. 8 Sunsweet Growers, Inc.*, No. 2:23-CV-01413-DJC-DB, at *8 (“Plaintiff’s claim for untimely 9 wages — which the Court found to be preempted by the LRMA — must be dismissed for 10 Plaintiff’s failure to allege that she engaged in the grievance procedure at all[.]”); *Seid v. Pac.*

Bell, 11 Inc., 635 F. Supp. 906, 909 (S.D. Cal. 1985) (Claim preempted by section 301 was dismissed for 12 failure to exhaust remedies under the bargaining agreement, not merely because it was 13 preempted.). 14 ii. Failure to Exhaust Grievance Procedures 15 With regard to their preempted claims, Plaintiffs here are “employee(s) seeking to 16 vindicate personal rights under a collective bargaining agreement[, and so they] must first attempt 17 to exhaust any mandatory or exclusive grievance procedures provided in the agreement” to survive 18 dismissal of those claims.

See *Soremekun*, 509 F.3d at 985–86. The CBA requires specific grievance and disputed charge procedures—including presenting their grievances to their employer or local union representative, allowing either to remedy or adjust their grievance within three days, and thereafter taking the grievance to an impartial arbitrator—for claims regarding overtime pay and meal and rest breaks, among others.

Since Plaintiffs here fail to allege that they followed the required grievance procedures, their claims regarding overtime pay and meal and rest periods must be dismissed. Defendant’s additional arguments for dismissal, including that any PAGA action is barred by the CBA’s PAGA waiver, need not be reached at this time. Defendant’s Request for Judicial Notice, Dkt.

9, regarding an order in another case implicating *V. CONCLUSION* 2 For the foregoing reasons, Plaintiffs’ claims regarding overtime pay and meal and rest periods are dismissed with leave to amend. Plaintiffs are instructed to file an amended complaint or advise the Court that they do not intend to amend by November 10, 2025. ITISSO ORDERED.

7 8 Dated: October 20, 2025 9 RICHARD SEEBORG 10 Chief United States District Judge 11 12 15 16 = 17 Z 18 19 20 21 22 23 24 PAGA waivers, is denied. The subjects of the request are not proper subjects for judicial notice. 26 > In the event no federally preempted claims are properly pled, it is unlikely supplemental jurisdiction would be exercised over remaining state law claims.

28 ORDER GRANTING IN PART MOTION TO DISMISS CASE No. 25-cv-07642-RS