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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

GENERAL TEAMSTERS LOCAL #439,  
affiliated with INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
  
Plaintiff,  
  
v.  
  
LEPRINO FOODS COMPANY,  
  
Defendant.

No. 2:21-cv-00563-MCE-CKD

**MEMORANDUM AND ORDER**

On March 4, 2021, Plaintiff General Teamsters Local #439 (“Plaintiff”) filed a  
Petition to Compel Arbitration (“Petition”) in the Superior Court of California, County of  
San Joaquin, against Defendant Leprino Foods Company (“Defendant”), seeking to  
order Defendant “to submit the outstanding dispute to the grievance and arbitration  
procedures set forth in the provisions of the collective bargaining agreement . . . and to  
otherwise comply with the grievance and arbitration procedures required by said  
agreement . . . .” Ex. 1, Not. Removal, ECF No. 1, at 9. Defendant timely removed the  
Petition to this Court pursuant to 28 U.S.C. § 1331. Presently before the Court are two  
motions: (1) Plaintiff’s Motion to Compel Arbitration, ECF No. 6, and (2) Defendant’s  
Motion for Sanctions pursuant to Federal Rule of Civil Procedure 11, ECF No. 12. For  
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1 the reasons set forth below, Plaintiff’s Motion to Compel Arbitration is DENIED, and  
2 Defendant’s Motion for Sanctions is GRANTED.<sup>1</sup>

3  
4 **BACKGROUND**

5  
6 **A. Collective Bargaining Agreement**

7 Plaintiff and Defendant are parties to a written collective bargaining agreement  
8 (“CBA”), which was in effect at all times relevant to the pending Motions. See generally  
9 Ex. A, Not. Removal, ECF No. 1, at 10–96. Section 19.A of the CBA titled “Job Bidding”  
10 provides, in relevant part, the following:

11 The working foreperson position shall be considered an  
12 assignment rather than a job classification for purposes of  
13 Sections 18 and 19 of this Agreement. **The designation of**  
14 **employees for such assignments is the exclusive right of**  
15 **the Employer and is not subject to review under this**  
16 **Agreement.** For purposes of layoff, bumping, disqualification  
17 or resignation of the working foreperson assignment, the  
18 working foreperson shall be considered to have remained  
19 within the classification previously held and reclaim his/her  
20 previously held position, provided that position is not held by a  
21 higher senior employee. If a higher senior employee is holding  
22 the position or the job has been eliminated, the employee will  
23 bump in accordance with Section 18 (D) 2.

18 **The Employer shall consider candidates in the following**  
19 **order, but the Employer shall be the sole judge both of the**  
20 **employee’s qualifications and of their suitability to the**  
21 **position in question, and no such judgment concerning**  
22 **the Employer’s requirements shall be subject to the**  
23 **review under any provision of the Agreement** (the  
24 Employer shall post a list to afford employees the opportunity  
25 to indicate their interest in working foreperson assignments).

23 (1) The Foreperson selection process shall be as follows when  
24 a vacancy occurs:

24 (a) The Department Manager will ask each of the current  
25 department forepersons, in order of seniority, if they are  
26 interested in the vacancy.

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28 <sup>1</sup> Because oral argument would not be of material assistance, the Court ordered these matters  
submitted on the briefs. E.D. Local Rule 230(g).

1 (b) If any of the existing department forepersons have an  
2 interest they would be awarded the position, by seniority, and  
then an interest list for the final vacancy will be posted.

3 (2) For working foreperson assignments in the maintenance  
4 department, the Employer shall consider first employees with  
5 at least three (3) months experience in the plant; if no such  
6 employee meets the Employer's requirements, the Employer  
shall consider employees with less than three (3) months  
experience in the plant;

7 (3) For working foreperson assignments in all other  
8 departments in the plant, the Employer shall consider first  
9 employees with at least one (1) year experience in Bracket 2  
10 or 3; if no such employee meets the Employer's requirements,  
11 the Employer shall next consider employees with at least one  
12 (1) year experience in Brackets 4 or 5; if no such employee  
meets the Employer's requirements for working foreperson in  
the Processing Department, the Employer shall consider first  
employees with one (1) year experience in the plant; if no such  
employee meets the Employer's requirements, then the  
Employer shall consider the employees with less than one (1)  
year experience in the plant.

13 Working Foreperson with the most plant seniority that is  
14 capable of performing the job will be retained for the purpose  
of layoff and bumping procedures.

15 Id. at 28–29 (emphases added).

16 **B. Prior Lawsuit**

17 In 2018, Plaintiff previously brought a lawsuit against Defendant in this Court,  
18 seeking to compel Defendant to arbitrate a grievance pursuant to section 301 of the  
19 Labor Management Relations Act ("LMRA"), codified at 29 U.S.C. § 185. See generally  
20 Teamsters Local 439 v. Leprino Foods Co., No. 2:18-cv-00280-MCE-CKD (E.D. Cal.  
21 2018) ("2018 Action").<sup>2</sup> The 2018 Action involved a grievance filed by Plaintiff and an  
22 employee of Defendant, Ms. Rita Shah, alleging that Defendant violated, in part, Section  
23 19 of the CBA by awarding the foreperson position to a different employee without first

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24  
25 <sup>2</sup> Defendant asks the Court to take judicial notice of seven documents from the 2018 Action. ECF  
26 No. 13-2 ("RJN"). Plaintiff does not oppose Defendant's request. See Pl.'s Reply Mot. Compel Arbitration,  
27 ECF No. 16, at 10. Pursuant to Federal Rule of Evidence 201(b), "[t]he court may judicially notice a fact  
28 that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial  
jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot  
reasonably be questioned." A court may take judicial notice of matters of public record. Lee v. City of  
L.A., 250 F.3d 668, 689 (9th Cir. 2001). Because these documents are the proper subject of judicial  
notice, Defendant's Request for Judicial Notice is GRANTED.

1 offering Ms. Shah the opportunity to bid for that position. See Ex. A, Def.'s RJN, ECF  
2 No. 13-2, at 4–92. Defendant subsequently moved to dismiss the complaint on grounds  
3 that Section 19 of the CBA expressly excludes Plaintiff's grievance from the CBA's  
4 arbitration provisions. See Ex. B, Def.'s RJN, ECF No. 13-2, at 94–105.

5 On June 8, 2018, this Court granted Defendant's motion to dismiss for the  
6 following reasons:

7 The CBA is clear that “[t]he designation of employees for  
8 ‘working foreperson’ assignments is the **exclusive right** of the  
9 Employer and is **not subject to review under this**  
10 **Agreement.**” ECF No. 1–2 at 15 (emphasis added). It then  
11 reiterates that “no . . . judgment concerning the Employer's  
12 requirements shall be subject to the review under any  
13 provision of the Agreement.” Id. As such, Defendant's  
14 decision to designate another employee as foreperson in lieu  
15 of Plaintiff is not arbitrable.

16 Plaintiff argues to the contrary that the “exclusion only applies  
17 to the Employer's initial assignment and determination of an  
18 employee's qualifications or suitability for the foreperson  
19 classification.” Pl.'s Op., ECF No. 7, at 5. If that was what the  
20 parties intended, however, they should have said as much.  
21 Nothing in the exclusionary language limits its application to  
22 initial designations. Rather, the CBA expressly states, without  
23 identifying any exceptions, that challenges to foreperson  
24 assignments are not subject to review under the terms of the  
25 agreement. Defendant's Motion is thus well taken, and  
26 Plaintiff's Complaint is DISMISSED.

27 Ex. E, Def.'s RJN, ECF No. 13-2, at 131–35. Although Plaintiff was given leave to file an  
28 amended complaint, it failed to do so and on July 19, 2018, this Court dismissed the  
2018 Action with prejudice. Exs. F–G, Def.'s RJN, ECF No. 13-2, at 137–39.

### 21 **C. Present Lawsuit**

22 Between November 27, 2019, and December 10, 2019, Plaintiff filed three  
23 grievances over Defendant's alleged violations of Section 19.A(1)–(3) of the CBA. See  
24 Ex. A, Not. Removal, ECF No. 1, at 28–29; Ex. 1, id., at 8. For example, two grievances  
25 alleged that Defendant failed to comply with the process outlined in Section 19.A(1)–(3)  
26 in the selection of a sanitation and warehouse foreperson, respectively. Ex. 1, id., at 8.  
27 Plaintiff ultimately claims that the grievances “concern whether [Defendant] complied  
28 with the process for selecting forepersons, not whether [Defendant] abused its discretion

1 in choosing a foreperson if the contractually agreed upon selection process was  
2 followed.” Id. On January 8, 2020, in response to each grievance, Defendant advised  
3 Plaintiff that “selection of foreperson is not grievable under the CBA.” Ex. 1, Rappaport  
4 Decl., ECF No. 13-1, at 6–8.

5 On February 18, 2020, Plaintiff sent Defendant a formal request for arbitration.  
6 Ex. 2, id., at 11. After receiving a follow-up communication from Plaintiff, on March 10,  
7 2020, Defendant declined to arbitrate the three grievances, explaining that the selection  
8 of working forepersons is not arbitrable under the CBA and that this issue was already  
9 litigated in the 2018 Action. Id. at 10–17. Similarly, on May 21, 2020, the parties again  
10 discussed by letter whether the three grievances are arbitrable, with Plaintiff asserting  
11 that the present grievances were filed under Section 19.A(3), whereas the grievance  
12 underlying the 2018 Action was filed under Section 19.A(1). Ex. 3, id., at 19. Defendant  
13 again reiterated that, regardless of the subsection, the Court already determined in the  
14 2018 Action that challenges to foreperson assignments are not arbitrable. Id. at 20.

15 On June 9, 2020, Plaintiff’s counsel sent another letter to Defendant, stating that,  
16 after reviewing the decision in the 2018 Action and the CBA, Defendant is incorrect in its  
17 position that the present grievances are not arbitrable. Ex. 4, id., at 22–24 (“All three  
18 grievances at issue contend that [Defendant] failed to follow the process in selecting  
19 forepersons, and are not challenges to the judgment of [Defendant] to pick a particular  
20 foreperson.”). Plaintiff subsequently emailed Defendant on August 31, 2020, inquiring  
21 about the selection of arbitrators. Id. at 25. Defendant responded to the last two  
22 communications on September 11, 2020, stating that the June 9 letter included the exact  
23 same arguments made by Plaintiff in the 2018 Action, and affirming its position that the  
24 present grievances are not arbitrable. Ex. 5, id., at 27.

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1 **ANALYSIS**

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3 **A. Plaintiff’s Motion to Compel Arbitration**

4 Plaintiff seeks to compel Defendant to arbitrate grievances based on Defendant’s  
5 alleged failure to follow the process and steps set forth in Section 19.A(1)–(3) of the  
6 CBA. See Pl.’s Mem. ISO Mot. Compel Arbitration, ECF No. 7, at 6–7. Defendant  
7 argues, in part, that Plaintiff’s Motion is barred by the doctrines of res judicata and  
8 collateral estoppel because both the 2018 Action and the present action involve the  
9 same issue and parties. See Def.’s Opp’n Mot. Compel Arbitration, ECF No. 13, at 18–  
10 20.

11 The United States Supreme Court succinctly described the doctrine of res judicata  
12 as follows:<sup>3</sup>

13 The preclusive effect of a judgment is defined by claim  
14 preclusion and issue preclusion, which are collectively referred  
15 to as “res judicata.” Under the doctrine of claim preclusion, a  
16 final judgment forecloses “successive litigation of the very  
17 same claim, whether or not relitigation of the claim raises the  
18 same issues as the earlier suit.” Issue preclusion, in contrast,  
19 bars successive litigation of an issue of fact or law actually  
20 litigated and resolved in a valid court determination essential  
to the prior judgment,” even if the issue recurs in the context of  
a different claim. By “precluding parties from contesting  
matters that they have had a full and fair opportunity to litigate,”  
these two doctrines protect against “the expense and vexation  
attending multiple lawsuits, conserve judicial resources, and  
foster reliance on judicial action by minimizing the possibility of  
inconsistent decisions.”

21 Taylor, 553 U.S. at 892 (citations omitted). The Court will first address issue preclusion  
22 or collateral estoppel, which applies when four conditions are met: “(1) the issue at  
23 stake was identical in both proceedings; (2) the issue was actually litigated and decided  
24 in the prior proceedings; (3) there was a full and fair opportunity to litigate the issue; and  
25 (4) the issue was necessary to decide the merits.” Janjua v. Neufeld, 933 F.3d 1061,  
26 1065 (9th Cir. 2019) (quoting Oyeniran v. Holder, 672 F.3d 800, 806 (9th Cir. 2012)).

27 <sup>3</sup> “The res judicata effect of federal court judgments is a matter of federal law.” W. Sys., Inc. v.  
28 Ulloa, 958 F.2d 864, 871 n.11 (9th Cir. 1992) (citation omitted); see also Taylor v. Sturgell, 553 U.S. 880,  
891 (2008) (“The preclusive effect of a federal-court judgment is determined by federal common law.”).

1 Here, the parties dispute whether the first prong is met, i.e., whether the issues  
2 are identical. In the 2018 Action, Plaintiff sought to compel Defendant to arbitrate a  
3 grievance alleging that Defendant violated, in part, Section 19 of the CBA by awarding  
4 the foreperson position to a different employee without first offering Ms. Shah the  
5 opportunity to bid for that position. See Ex. A, Def.'s RJN, ECF No. 13-2, at 4–92. By  
6 way of the present action, Plaintiff now seeks to compel Defendant to arbitrate three  
7 grievances alleging that Defendant failed to comply with the foreperson selection  
8 procedures set forth in Section 19.A(1)–(3) of the CBA. See Ex. 1, Not. Removal, ECF  
9 No. 1, at 7–9; Pl.'s Mem. ISO Mot. Compel Arbitration, ECF No. 7, at 1–2.

10 On the surface, both actions involve the selection of forepersons under  
11 Section 19.A of the CBA. Plaintiff, however, tries to distinguish the issues in both  
12 actions, asserting that “the 2018 [Action] by the District Court found that [Plaintiff] could  
13 not grieve whether a particular person is a foreperson, which is different than the current  
14 three grievances, which challenge whether [Defendant] complied with the process of  
15 who to consider first.” Pl.'s Mem. ISO Mot. Compel Arbitration, ECF No. 7, at 11 (“There  
16 is a world of difference between process and selection.”). Despite Plaintiff’s efforts, the  
17 Court finds that the issues in both actions are identical, which is whether Defendant  
18 should be compelled to arbitrate grievances alleging violations of the foreperson  
19 selection process set forth in Section 19.A. The grievance in the 2018 Action was not  
20 simply about whether the correct person was chosen as the foreperson; in fact, Plaintiff’s  
21 claim was that Defendant offered the foreperson position to a different employee  
22 **without first offering Ms. Shah the opportunity to bid for that position.** This clearly  
23 has to do with the selection process and not just the selection of the foreperson.

24 The Court also finds the remaining prongs to be satisfied. Regarding the second  
25 and third prongs, the issue of whether Defendant should be compelled to arbitrate  
26 grievances based on violations of the foreperson selection process in Section 19.A was  
27 actually litigated and decided in the 2018 Action, and Plaintiff had a full and fair  
28 opportunity to litigate that issue in this same Court. Many of the arguments asserted by

1 Plaintiff here are identical to its arguments in the 2018 Action, which were already  
2 considered by this Court and ultimately rejected. See Janjua, 933 F.3d at 1066 (holding  
3 that “an issue is actually litigated when an issue is raised, contested, and submitted for  
4 determination.”) (citation omitted). For example, Plaintiff’s complaint in the 2018 Action  
5 alleged that Defendant did not follow the process set forth in Section 19.A(1) of the CBA  
6 in selecting a new foreperson. See Ex. A, Def.’s RJN, ECF No. 13-2, at 6 (claiming that  
7 Defendant “did not ask if [Ms. Shah] was interested in the store room foreperson position  
8 in order of seniority” prior to asking another employee). Additionally, Plaintiff stated in its  
9 opposition brief to Defendant’s motion to dismiss in the 2018 Action that “Plaintiff’s  
10 grievance in this case specifically references Section 19(A)(1) and asserts that  
11 [Defendant] violated the CBA **by not following the prescribed process for filling a  
12 vacant foreperson position.**” Ex. C, id., at 116 (emphasis added). Finally, when ruling  
13 on Defendant’s motion to dismiss in the 2018 Action, the Court determined that “the CBA  
14 expressly states, without identifying any exceptions, that challenges to foreperson  
15 assignments are not subject to review under the terms of the agreement.” Ex. E, id., at  
16 135. As for the fourth prong, for reasons outlined above, the issue of whether Plaintiff’s  
17 grievances were arbitrable under Section 19.A was the central issue before this Court.

18 Because all four prongs have been satisfied, the Court finds Plaintiff’s present  
19 action to be barred by collateral estoppel.<sup>4</sup> Accordingly, Plaintiff’s Motion to Compel  
20 Arbitration is DENIED.

21 **B. Defendant’s Motion for Sanctions Pursuant to Federal Rule of Civil**  
22 **Procedure 11<sup>5</sup>**

23 Pursuant to Rule 11, Defendant requests that “this Court sanction [Plaintiff] and its  
24 counsel by reimbursing [Defendant] all costs and fees incurred to defend itself in this  
25 matter, including [Defendant’s] fees incurred in bringing the instant Motion.” Def.’s Mem.

26 <sup>4</sup> Because issue preclusion requires the Court to dismiss this action, it need not address claim  
27 preclusion.

28 <sup>5</sup> All further references to “Rule” or “Rules” are to the Federal Rules of Civil Procedure, unless  
otherwise stated.



1 ISO Mot. Sanctions, ECF No. 12-1, at 7 (requesting at least \$30,235 in attorneys' fees  
2 and costs). Under Rule 11, by presenting papers to this Court, an attorney certifies that  
3 his legal contentions are warranted by existing law, supported by factual evidence, and  
4 are not presented "for any improper purpose." Fed. R. Civ. P. 11(b). If the Court finds  
5 that Rule 11(b) has been violated, it may impose a reasonable sanction on any attorney,  
6 law firm, or party that violated the rule. Fed. R. Civ. P. 11(c)(1).

7 Rule 11 "is designed to deter attorneys and unrepresented parties from violating  
8 their certification that any pleading, motion or other paper presented to the court is  
9 supported by an objectively reasonable legal and factual basis; no showing of bad faith  
10 or subjective intent is required." Truesdell v. S. Cal. Permanente Med. Grp., 209 F.R.D.  
11 169, 173–74 (C.D. Cal. 2002). Rather, Rule 11 is governed by an objective standard of  
12 reasonableness. See, e.g., Conn v. CSO Borjorquez, 967 F.2d 1418, 1420 (9th Cir.  
13 1992). Thus, where a party "pursues causes of action for which there is no legal basis  
14 whatsoever," sanctions may be warranted. Bhambra v. True, No. 09–cv–4685–CRB,  
15 2010 WL 1758895, at \*3 (N.D. Cal. Apr. 30, 2010).

16 "The central purpose of Rule 11 is to deter baseless filings." United States ex rel.  
17 Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 254 (9th Cir.1992)  
18 (citing Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990)). "Under the plain  
19 language of the rule, when one party files a motion for sanctions, the court must  
20 determine whether any provisions of subdivision (b) have been violated." Id. If  
21 Rule 11(b) was violated, the court "may" impose sanctions. Id. at 1390. However, a  
22 court cannot simply assert that it "declines to impose sanctions." Id. The Court will first  
23 address whether Defendant has complied with Rule 11's safe harbor provision, then the  
24 propriety and amount, if any, of sanctions.

### 25 1. Safe Harbor Provision

26 Where, as here, sanctions are initiated by motion, Rule 11  
27 provides for a mandatory 21 day safe-harbor period before a  
28 motion for sanctions is filed with the court. The movant serves  
the allegedly offending party with a filing-ready motion as  
notice that it plans to seek sanctions. After 21 days, if the

1 offending party has not withdrawn the filing, the movant may  
2 file the Rule 11 motion with the court. This period is meant to  
3 give litigants an opportunity to remedy any alleged misconduct  
before sanctions are imposed.

4 Truesdell v. S. Cal. Permanente Med. Grp., 293 F.3d 1146, 1151–52 (9th Cir. 2002)  
5 (citing Fed. R. Civ. P. 11).

6 Here, on April 9, 2021, Defendant both mailed and emailed Plaintiff a copy of the  
7 Motion for Sanctions and a letter explaining that, unless Plaintiff dismisses the present  
8 action, Defendant will file its Motion for Sanctions to recover its attorneys' fees and costs  
9 on grounds that "[Plaintiff] has ignored well-established case law in filing its state and  
10 federal court petitions to compel arbitration and blatantly disregarded the 2018 prior  
11 court order adjudicating the same issue involved in the instant action between the same  
12 parties under the same section of the CBA." See Ex. 7, Rappaport Decl., ECF No. 12-2,  
13 at 35–36. Plaintiff responded to the letter and enclosures on April 29, 2021, contending  
14 that the grievances in the present action are different than those asserted in the 2018  
15 Action, and that Plaintiff will continue to proceed with its Motion to Compel Arbitration.  
16 Ex. 8, id., at 38. Accordingly, Defendant's April 9, 2021 letter fulfilled the purpose of  
17 Rule 11(c)(2)'s safe harbor provision as it provided Plaintiff with an opportunity to  
18 dismiss the pending lawsuit within 21 days.

## 19 **2. Propriety of Rule 11 Sanctions**

20 In assessing whether sanctions are warranted based on the filing of a complaint,  
21 "a district court must conduct a two-prong inquiry to determine (1) whether the complaint  
22 is legally or factually 'baseless' from an objective perspective, and (2) if the attorney has  
23 conducted 'a reasonable and competent inquiry' before signing and filing it." Christian v.  
24 Mattel, Inc., 286 F.3d 1118, 1127 (9th Cir. 2002) (citing Buster v. Greisen, 104 F.3d  
25 1186, 1190 (9th Cir. 1997), abrogated on other grounds by Fossen v. Blue Cross & Blue  
26 Shield of Mont., Inc., 660 F.3d 1102 (9th Cir. 2011)). A filing that is "both baseless and  
27 made without a reasonable and competent inquiry" is frivolous. Townsend v. Holman  
28 Consulting Corp., 929 F.2d 1358, 1362 (9th Cir. 1990).

1 Filing a complaint that includes factual or legal contentions that are barred by a  
2 prior judgment may give rise to sanctions under Rule 11. See, e.g., Ivanova v. Columbia  
3 Pictures Indus., Inc., 217 F.R.D. 501, 512 (C.D. Cal. 2003); King v. Hoover Grp., Inc.,  
4 958 F.2d 219, 223 (8th Cir. 1992) (upholding sanctions where the party “should have  
5 realized that [the second action] was barred by [the first action] because of the identity of  
6 the facts and issues”); So. Leasing Partners, Inc., McMullan, 801 F.2d 783, 788–89  
7 (5th Cir. 1986); Cannon v. Loyola Univ. of Chicago, 784 F.2d 777, 782 (7th Cir. 1986).  
8 In fact, some courts have noted that “a district court abuses its discretion by refusing to  
9 sanction a plaintiff and his counsel under Rule 11 for filing and maintaining a frivolous  
10 lawsuit when the plaintiff seeks to relitigate claims he had been denied leave to serve  
11 against the same defendant in an earlier lawsuit.” Pro. Mgmt. Associates, Inc. v. KPMG  
12 LLP, 345 F.3d 1030, 1033 (8th Cir. 2003).

13 Defendant contends that sanctions are warranted here, in part, because a  
14 reasonable inquiry would have discovered that “no part of the foreperson selection  
15 process under Section 19(A) of the CBA is arbitrable” in light of the 2018 Action and  
16 Defendant’s multiple communications with Plaintiff dating back to January 2020. Def.’s  
17 Mem. ISO Mot. Sanctions, ECF No. 12-1, at 21. In arguing that its Motion to Compel  
18 Arbitration is not frivolous or without factual foundation, Plaintiff merely reiterates  
19 arguments made in said motion, including that collateral estoppel does not bar the  
20 present action. See generally Pl.’s Opp’n Mot. Sanctions, ECF No. 20.

21 The Court finds that both prongs set forth in Christian are met in light of the  
22 Court’s finding that the present action is in fact barred by collateral estoppel. First, the  
23 present action is legally baseless because “it seeks to relitigate issues that were  
24 conclusively resolved in the prior suit.” Buster, 104 F.3d at 1190. Second, “a filing is  
25 frivolous when a reasonable inquiry would have revealed that a case was barred by  
26 principles of res judicata and collateral estoppel.” Sconiers v. Fresno Cnty. Superior Ct.,  
27 No. 1:11-cv-00113-LJO-SMS, 2011 WL 5884263, at \*12 (E.D. Cal. Nov. 23, 2011) (citing  
28 Buster, 104 F.3d at 1190).

1 Plaintiff claims that its “current counsel was not provided the briefings in [the 2018  
2 Action], argued by other counsel, until [Defendant] requested to have those pleadings  
3 judicially noticed.” Pl.’s Opp’n Mot. Sanctions, ECF No. 20, at 14 n.5. However, in a  
4 letter to Defendant’s counsel dated June 9, 2020, Plaintiff’s counsel stated that he  
5 reviewed the CBA and the Court’s decision from the 2018 Action, but nonetheless  
6 concluded that Defendant was “misreading the contract and relevant labor law authority.”  
7 Ex. 4, Rappaport Decl., ECF No. 12-2, at 23. In any event, the Court is not moved by  
8 Plaintiff’s assertion that it was not provided the briefings from the 2018 Action, especially  
9 since those documents are public records. Furthermore, in its Motion to Compel  
10 Arbitration and opposition to Defendant’s Motion for Sanctions, Plaintiff asserts identical  
11 arguments it made in the 2018 Action as well as its multiple communications with  
12 Defendant prior to the filing of the present action. See Exs. 1–6, Rappaport Decl., ECF  
13 No. 13-1, at 5–32. Therefore, the filing of the Petition and Motion to Compel, in addition  
14 to Plaintiff’s subsequent refusal to withdraw the filing after receiving the safe harbor  
15 letter, violated Rule 11(b).

### 16 3. Amount of Sanctions

17 Rule 11 provides that “the court may impose an appropriate sanction on any  
18 attorney, law firm, or party that violated the rule or is responsible for the violation.”  
19 Fed. R. Civ. P. 11(c)(1). “If warranted, the court may award to the prevailing party the  
20 reasonable expenses, including attorney’s fees, incurred for the motion.” Id. 11(c)(2).

21 Here, Defendant seeks sanctions in the amount of \$30,235. Def.’s Mem. ISO  
22 Mot. Sanctions, ECF No. 12-1, at 7; see also Rappaport Decl., ECF No. 12-2 ¶¶ 10–16.  
23 This amount is based on the number of hours attorneys Adrianna C. Kourafas and  
24 Sandra L. Rappaport reportedly spent in bringing the motion for sanctions and in  
25 opposing the Petition and Plaintiff’s Motion to Compel Arbitration. See Rappaport Decl.,  
26 ECF No. 12-2 ¶¶ 10–13. Also included in this amount is defense counsel’s anticipatory  
27 costs in (1) reviewing Plaintiff’s opposition to the Motion for Sanctions and Plaintiff’s  
28 reply in support of its Motion to Compel Arbitration; (2) drafting, reviewing, and revising

1 Defendant's reply in support of its Motion for Sanctions; and (3) if applicable, preparing  
2 for and arguing in hearings on both Motions. Id. ¶¶ 14–15. However, it is unclear how  
3 much time defense counsel actually spent on these anticipatory costs, especially since  
4 no oral argument was held. Before issuing monetary sanctions, the Court finds that  
5 updated information as to Defendant's attorneys' fees and costs is necessary in order to  
6 conduct a proper lodestar analysis.


7 In sum, the Court GRANTS Defendant's Motion for Sanctions, but reserves the  
8 issue of the amount of sanctions upon an updated itemization of actual expenses  
9 incurred.

### 11 CONCLUSION

12  
13 For the foregoing reasons, Plaintiff's Motion to Compel Arbitration, ECF No. 6, is  
14 DENIED. Defendant's Motion for Sanctions, ECF No. 12, is GRANTED, with the amount  
15 of sanctions to be determined. Not later than fourteen (14) days after this Memorandum  
16 and Order is electronically filed, Defendant shall file an updated declaration with itemized  
17 amounts based on the actual hours incurred during the course of these proceedings.  
18 Plaintiff may, but is not required to, file a response no later than seven (7) days after  
19 Defendant's declaration is filed.

20 IT IS SO ORDERED.

21 Dated: January 7, 2022

22  
23   
24 MORRISON C. ENGLAND, JR.  
25 SENIOR UNITED STATES DISTRICT JUDGE  
26  
27  
28