

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEVEN GALES, on behalf of himself and
all others similarly situated,

No. C 09-05813 CRB

Plaintiff,

**ORDER REGARDING MOTION TO
EXCLUDE**

v.

WINCO FOODS,

Defendant.

Plaintiff Steven Gales asks the Court to exclude the declarations of 37 witnesses, as well as “evidence pertaining to the number of persons WinCo employs at each of its California stores,” when it reviews Defendant WinCo Foods’s Opposition to Plaintiff’s Motion for Class Certification. See generally dkt. 83. Plaintiff claims that he was entitled to such information pursuant to Federal Rule of Civil Procedure 26, and that Defendant improperly withheld it. Id. at 11. In order to alleviate any disadvantage Plaintiff believes he has suffered by the late disclosure of this information, the Court orders as follows.

First, Defendant is ORDERED to make each of the 37 witnesses at issue in this Motion, and additional witnesses qualified to testify about “evidence pertaining to the number of persons WinCo employs at each of its California stores,” immediately available for depositions by Plaintiff of no longer than three hours each. Depositions are to take place

1 within the next 60 days.

2 Second, Plaintiff's Motion for Class Certification (dkt. 49), currently set for June
3 10, 2011 is hereby VACATED. Plaintiff may re-file a motion to certify the class following
4 the conclusion of this additional discovery

5 Third, the pending Motion to Exclude Evidence (dkt. 83) is VACATED as moot.

6 **IT IS SO ORDERED.**

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8 Dated: May 10, 2011



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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