

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

BRIAN ALGEE, individually and on behalf of all others similarly situated,

No. C 11-301 CW

ORDER DENYING  
DEFENDANT'S MOTION  
FOR RULE 11  
SANCTIONS WITHOUT  
PREJUDICE (Docket  
Nos. 95)

Plaintiff,

v.

NORDSTROM, INC.,

Defendant.

Defendant Nordstrom, Inc. moves for Rule 11 sanctions, arguing that Plaintiff Brian Algee's deposition testimony indicates that he was properly classified as overtime exempt, that his claims against it are therefore frivolous. Defendant seeks dismissal of Plaintiff's case.

16 Defendant previously raised this issue in its motions for  
17 relief from two non-dispositive orders of a magistrate judge. In  
18 addressing the motions, the Court noted, "The essence of  
19 Defendant's argument is that Plaintiff will not be able to prove  
20 the merits of his case." Docket 90, 2. At that time, the Court  
21 directed Defendant to include this argument in a cross-motion for  
22 summary judgment filed "as part of its opposition to Plaintiff's  
23 motion for class certification and cross-motion to compel  
24 arbitration of current employees." Id. at 2 n.1.

25 The Court DENIES Defendant's motion for sanctions without  
26 prejudice to it bringing the motion again as part of its  
27 opposition to Plaintiff's motion for class certification and  
28 cross-motion to compel arbitration and for summary judgment.

1       The Court confirms the following briefing and hearing  
2 schedule, as set forth in the orders of March 27, 2012 and May 25,  
3 2012:

4 <u>Event</u>	5 <u>Date</u>
6       Deadline for Plaintiff to file his motion for 7 class certification, in a brief of twenty-five 8 pages or less	October 11, 2012
9       Deadline for Defendant to file its opposition 10 to Plaintiff's motion for class certification 11 and its cross-motions to compel arbitration and 12 for summary judgment and sanctions, all 13 contained in a single brief of twenty-five 14 pages or less	October 25, 2012
15       Deadline for Plaintiff to file his reply in 16 support of his motion for class certification 17 and oppositions to Defendant's cross-motions, 18 all contained in a single brief of twenty-five 19 pages or less	November 1, 2012
20       Deadline for Defendant to file its replies in 21 support of its cross-motions, both contained in 22 a single brief of fifteen pages or less	November 8, 2012
23       Hearing on Plaintiff's motion for class 24 certification and Defendant's cross-motions, 25 and further case management conference	November 29, 2012 at 2:00 p.m.

17       The parties may stipulate to advance the briefing and hearing  
18 schedule set forth above, provided that Plaintiff is prepared to  
19 respond to Defendant's dispositive motion, that opposing briefs  
20 are filed in series as described above, not contemporaneously, and  
21 that the parties' briefing is completed at least two weeks before  
22 the hearing date.

23       IT IS SO ORDERED.

24  
25       Dated: 7/20/2012

  
CLAUDIA WILKEN  
United States District Judge