

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

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

Plaintiff,

v.

NORDSTROM, INC.,

Defendant.

No. C 11-301 CW

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

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 and that his claims against it are therefore frivolous. Defendant seeks dismissal of Plaintiff's case.

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

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

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

<u>Event</u>	<u>Date</u>
Deadline for Plaintiff to file his motion for class certification, in a brief of twenty-five pages or less	October 11, 2012
Deadline for Defendant to file its opposition to Plaintiff's motion for class certification and its cross-motions to compel arbitration and for summary judgment and sanctions, all contained in a single brief of twenty-five pages or less	October 25, 2012
Deadline for Plaintiff to file his reply in support of his motion for class certification and oppositions to Defendant's cross-motions, all contained in a single brief of twenty-five pages or less	November 1, 2012
Deadline for Defendant to file its replies in support of its cross-motions, both contained in a single brief of fifteen pages or less	November 8, 2012
Hearing on Plaintiff's motion for class certification and Defendant's cross-motions, and further case management conference	November 29, 2012 at 2:00 p.m.

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

IT IS SO ORDERED.

Dated: 7/20/2012


CLAUDIA WILKEN
United States District Judge