

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEAN POWELL, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

UNITED RENTALS (NORTH AMERICA),
INC.,

Defendant.

No. 2:17-cv-01573 JLR

STIPULATED MOTION AND
~~PROPOSED~~ CASE
MANAGEMENT ORDER

NOTE ON MOTION CALENDAR:
November 2, 2018

STIPULATED MOTION

Plaintiff Sean Powell and Defendant United Rentals (North America), Inc. ("United Rentals") (collectively, the "Parties") stipulate as follows through their respective counsel:

1. Former Named Plaintiff Ricardo Castillo filed this class and collective action on October 23, 2017, alleging claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* ("FLSA") and Washington state law.

2. The Court entered prior Case Management Orders establishing deadlines for the completion of class/collective discovery and motions for class/collective certification on December 8, 2017, and April 16, 2018. Dkt. Nos. 15, 37. Those orders did not set dates

1 beyond class/collective certification because those deadlines will turn on whether the case
2 proceeds as a class or collective.

3 3. On June 19, 2018, former Named Plaintiff Ricardo Castillo filed a motion
4 seeking leave to file an amended complaint substituting Plaintiff Sean Powell as the named
5 plaintiff in this action. Dkt No. 44. While that motion was pending, the Court granted the
6 Parties' stipulated motion to vacate the then-current Case Management Order. Dkt. No. 46.

7 4. On July 16, 2018, the Court granted Plaintiff Powell leave to file an amended
8 complaint in which he be would substituted as the named plaintiff in this action. Dkt. No. 52.

9 5. On July 17, 2018, Plaintiff Powell filed the Second Amended Class and
10 Collective Action Complaint ("SAC"), in which he was the named plaintiff. Dkt No. 53.

11 6. Pursuant to the Parties' stipulation and the Court's order, Plaintiff Powell filed
12 the Third Amended Class and Collective Action Complaint on August 6, 2018, to resolve a
13 dispute between the Parties regarding the sufficiency of the allegations in the SAC. Dkt. No.
14 56.

15 7. On September 5, 2018, United Rentals timely filed its Answer to Plaintiff's
16 Third Amended Complaint. Dkt. No. 57.

17 8. On September 12, 2018, United Rentals' counsel sent Plaintiff Powell's counsel
18 a letter informing their office that Plaintiff Powell had executed an arbitration agreement and
19 offering to meet and confer regarding next steps.

20 9. On September 18, 2018, United Rentals filed its First Amended Answer to
21 Plaintiff's Third Amended Complaint, which asserted as an affirmative defense that Plaintiff
22 Powell had executed a binding arbitration agreement. Dkt. No. 58 at 36.

23 10. The Parties exchanged various emails on the topic of the arbitration agreement
24 and held several calls to discuss the arbitration issue. On October 3, 2018, Plaintiff Powell's
25 counsel indicated he would not agree to arbitration, and United Rentals' counsel stated the
26 company's intention to move to compel arbitration. The Parties also agreed to voluntarily hold
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1 in abeyance class and merits discovery until the Court has an opportunity to rule upon United
2 Rentals' forthcoming motion to compel arbitration.

3 11. On October 19, 2018, the Court entered a Minute Order directing the Parties to
4 file a proposed amended case management schedule by November 2, 2018. Dkt. No. 59.

5 12. United Rentals intends to file a motion to compel Plaintiff Powell's claims to
6 arbitration in the immediate future, and the parties have been discussing the timing of that
7 motion to avoid prejudicing either party's briefing due to the upcoming Thanksgiving holiday.
8 The Parties agree that the Court's resolution of that motion may affect whether or how this case
9 proceeds.

10 13. The Parties believe the interests of judicial economy will be best served by a
11 case management schedule with proposed dates that are contingent on the date the Court rules
12 upon United Rentals' forthcoming motion to compel arbitration. Therefore, the Parties
13 respectfully request that the Court enter the accompanying Proposed Order establishing the
14 following case management dates. For purposes of meeting the Court's request for a case
15 schedule, this schedule presumes Plaintiff Powell's claims survive the motion to compel
16 arbitration (which United Rentals contends should not occur):

17 a. Deadline for Plaintiff Powell to file his motion for conditional FLSA
18 certification: 90 days after the Court enters an order upon United Rentals' motion to compel
19 arbitration. The motion for conditional certification will be briefed under the LCR 7(d)(3)
20 schedule for fourth Friday motions.

21 b. Deadline to complete discovery regarding class certification and collective
22 decertification (assuming the Court grants conditional FLSA certification): 120 days after the
23 end of the opt-in period for any conditionally-certified FLSA collective.

24 c. Deadline for Plaintiff Powell to file his class certification motion: 30 days after
25 the discovery cutoff in (b), above. The class certification and FLSA decertification motion (if
26 any) will be briefed on the following schedule:
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i. Deadline for United Rentals’ opposition to class certification and United Rentals’ motion to decertify any FLSA collective: 30 days after Plaintiff Powell’s class certification motion.

ii. Deadline for Plaintiff Powell’s reply in support of class certification and Plaintiff Powell’s opposition to United Rentals’ motion to decertify any FLSA collective: 21 days after the deadline in (c)(i), above.

iii. Deadline for United Rentals’ reply in support of its motion to decertify any FLSA collective: 14 days after the deadline in (c)(ii), above.

14. By entering into this Stipulation, the Parties agree that United Rentals does not waive any arguments related to its motion to compel arbitration.

IT IS SO STIPULATED.

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Respectfully submitted this 2nd day of November, 2018.

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Attorneys for Plaintiff

~~PROPOSED~~ ORDER



Pursuant to the accompanying stipulation, and for good cause shown, the Court GRANTS the stipulation.

The Court accordingly adopts the following case schedule. The Court will set all other case deadlines after the Court issues its order on the motions for class certification and FLSA decertification.

a. Deadline for Plaintiff Powell to file his motion for conditional FLSA certification: 90 days after the Court enters an order upon United Rentals' motion to compel arbitration. The motion for conditional certification will be briefed under the LCR 7(d)(3) schedule for fourth Friday motions.

b. Deadline to complete discovery regarding class certification and collective decertification (assuming the Court grants conditional FLSA certification): 120 days after the end of the opt-in period for any conditionally-certified FLSA collective.

c. Deadline for Plaintiff Powell to file his class certification motion: 30 days after the discovery cutoff in (b), above. The class certification and FLSA decertification motion (if any) will be briefed on the following schedule:

i. Deadline for United Rentals' opposition to class certification and United Rentals' motion to decertify any FLSA collective: 30 days after Plaintiff Powell's class certification motion.

ii. Deadline for Plaintiff Powell's reply in support of class certification and Plaintiff Powell's opposition to United Rentals' motion to decertify any FLSA collective: 21 days after the deadline in (c)(i), above.


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iii. Deadline for United Rentals' reply in support of it motion to decertify any FLSA collective: 14 days after the deadline in (c)(ii), above.

IT IS SO ORDERED.

Dated: November 5, 2018.



Honorable James L. Robart
UNITED STATES DISTRICT JUDGE