



White v. The Kroger Co. et al

2023 | Cited 0 times | N.D. California | May 1, 2023

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

PHILLIP WHITE,

Plaintiff, v. THE KROGER CO., et al.,

Defendants.

Case No. 21-cv-08004-RS

ORDER SETTING BRIEFING ON MOTION TO DISMISS AND STAYING CASE

On April 21, 2023, plaintiff filed a motion requesting this action be dismissed under Rule 41(a)(2) of the Federal Rules of Civil Procedure. Plaintiff did not set the motion for hearing, and no briefing schedule was generated in the docket. Several days later, plaintiff filed an administrative motion requesting that the motion to dismiss be decided on an expedited basis and/or that discovery and all other proceedings be stayed pending resolution of that motion. wn the maximum recoverable damages do not meet the jurisdictional threshold under the Class Action Fairness Act. Although plaintiff does not have an unconditional right to dismiss because defendant already filed an answer, there appear to be no circumstances under which this action will not be dismissed in the near future. The only question is whether the dismissal will be without prejudice, as plaintiff requests, or whether it will be dismissed with prejudice or on other terms that the court considers proper Accordingly, this action is stayed pending resolution of the motion to dismiss. Defendant shall file any opposition to the motion to dismiss no later May 10, 2023. The motion will then be taken under submission without reply or oral argument unless otherwise ordered. The sealing motion will be adjudicated in conjunction with the motion to dismiss.

IT IS SO ORDERED.

Dated: May 1, 2023

RICHARD SEEBORG Chief United States District Judge

