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8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

11 CENTER FOR INDEPENDENT
 12 LIVING, INC., JANET BROWN, and
 13 LISA KILGORE on behalf of
 themselves and all others similarly
 14 situated,

15 Plaintiffs,

16 v.

17
 18 WAL-MART STORES, INC.,

19 Defendant.

20
 21 GEORGE PARTIDA, on behalf of
 himself and all others similarly
 22 situated,

23 Plaintiff,

24 v.

25 WAL-MART STORES, INC.,

26 Defendant.

Lead Case No. C 12-3885 CRB

**JOINT STIPULATION TO MODIFY
 NOVEMBER 2012 ORDER AND
~~PROPOSED~~ ORDER THEREON**

Judge: Hon. Charles R. Breyer

Consolidated Case No. C 13-00305 YGR

1 Plaintiffs Center for Independent Living, Inc., Janet Brown, and Lisa Kilgore
2 (collectively, the “CIL Plaintiffs”) and plaintiff George Partida, on the one hand, and defendant
3 Wal-Mart Stores, Inc. (“Wal-Mart”), on the other hand, enter into this Joint Stipulation with
4 reference to the following facts:

5 **RECITALS**

6 1. On November 20, 2012, the CIL Plaintiffs and Wal-Mart filed a Joint Stipulation
7 and Motion for Administrative Relief from General Order No. 56 to Permit the Parties to Pursue
8 Alternative Settlement Procedures. (*Docket No. 1.*) As the parties explained in their Joint
9 Stipulation, they agreed to pursue settlement discussions and alternative dispute resolution prior
10 to appearing before this Court for an initial status conference and prior to engaging in significant
11 litigation.

12 2. On November 21, 2012, this Court granted the parties’ Joint Stipulation, relieved
13 the CIL Plaintiffs and Wal-Mart from their obligations to comply with General Order No. 56, and
14 set forth the following schedule: exchange initial disclosures by December 19, 2012; attend
15 mediation by April 19, 2013; report on mediation results by May 10, 2013; submit a joint case
16 management conference statement by May 10, 2013; and attend a case management conference
17 on May 17, 2013 (the “November 2012 Order”). (*Docket No. 2.*)

18 3. Consistent with the November 2012 Order, the CIL Plaintiffs and Wal-Mart
19 exchanged initial disclosures, chose a mediator, reserved a mediation date, are conferring on a
20 joint case management conference statement, and are preparing to attend the case management
21 conference next month as scheduled. While the CIL Plaintiffs and Wal-Mart have been working
22 toward mediation, a number of events have transpired since the November 2012 Order was issued
23 that will not enable the parties to complete mediation by the April 19, 2013 deadline.

24 4. For example, shortly after the CIL Plaintiffs commenced their case, George Partida
25 filed a class action complaint against Wal-Mart in Los Angeles Superior Court (*Partida v. Wal-*
26 *Mart Stores, Inc.*, referred to as the “*Partida* action”). Like the CIL Plaintiffs, Partida alleges that
27 certain Wal-Mart stores in California employ point-of-sale (“POS”) devices that are inaccessible
28 to disabled patrons who use wheelchairs or scooters. However, Partida’s complaint, unlike the

1 complaint filed by the CIL Plaintiffs, includes specific allegations regarding at least one particular
2 Sam’s Club stores in California that allegedly employs POS devices that are inaccessible to
3 disabled patrons who use wheelchairs and scooters. One of the CIL Plaintiffs, Janet Brown, has
4 subsequently represented to the Court that she also has experienced allegedly inaccessible POS
5 devices at Sam’s Club Stores in California.

6 5. Wal-Mart removed the *Partida* action to the Central District and, with the
7 agreement of Partida’s counsel, the action was transferred to Northern District of California on
8 January 28, 2013. After the transfer, however, the *Partida* action was not automatically assigned
9 to this Court or consolidated with the action filed by the CIL Plaintiffs. Given the significantly
10 overlapping factual and legal issues Wal-Mart filed an administrative motion to relate the *Partida*
11 action to the instant case filed by the CIL Plaintiffs. This Court ordered the two cases – *Partida*
12 *v. Wal-Mart Stores, Inc.* and *Center for Independent Living, Inc., et al. v. Wal-Mart Stores, Inc.* –
13 related on March 8, 2013. (*Docket No. 19.*) On April 3, 2013, following another motion by Wal-
14 Mart, this Court consolidated the *Partida* action with the present action for all purposes. (*Docket*
15 *No. 28.*)

16 6. The procedural steps to consolidate the *Partida* action with the instant case
17 prosecuted by the CIL Plaintiffs (which included removal from state court, transfer to the
18 Northern District, a motion to relate cases, and motion to consolidate) were necessary to finally
19 determine the scope of claims to be potentially litigated by Wal-Mart and the scope of claims
20 subject to mediation. Put another way, it has taken time to effectuate the procedural steps to
21 finally resolve the scope of the litigation facing Wal-Mart and claims that will be subject to
22 settlement negotiations at the parties’ upcoming mediation. Since the consolidation issue was just
23 resolved two weeks ago, the parties’ ability to finalize a mediation date was delayed.

24 7. The filing of the *Partida* action also prompted counsel for the CIL Plaintiffs to file
25 a motion to be appointed interim class counsel pursuant to Federal Rule of Civil Procedure 23(g).
26 The Court granted that motion on April 3, 2013. (*Docket No. 27.*) In that order, this Court gave
27 the CIL Plaintiffs’ counsel the authority to “[e]nter[] into stipulations, with opposing counsel,
28 necessary for the conduct of the litigation” and designate “which attorneys may appear at

1 settlement negotiations on behalf negotiations on behalf of the putative class and conducting
2 settlement negotiations with defendant.” (*Id.*) Until this Court’s order on the interim counsel
3 motion, which also occurred just two weeks ago, it was unclear to Wal-Mart which set of
4 counsel – the attorneys representing the CIL Plaintiffs or the firm representing Partida – would
5 take the lead in settlement negotiations and mediation, or whether several different attorneys, with
6 potentially different views of resolution, would be involved in mediation.

7 8. Now that the *Partida* and *CIL* actions have been consolidated for all purposes and
8 interim class counsel has been appointed, the parties are prepared to mediate and potentially to
9 resolve all claims in the two consolidated cases pending before this Court. The parties have
10 agreed to use David Rotman as a mediator and have secured June 7, 2013 as a mediation date.
11 The June 7, 2013 date, however, does not meet the current April 19, 2013 mediation deadline set
12 by this Court’s November 2012 Order.

13 9. The parties are committed to moving this matter forward and to mediation.
14 Accordingly, at this juncture, the parties request only that the mediation deadline be moved from
15 April 19, 2013 to June 7, 2013; that the parties deadline to report on the results of mediation be
16 continued from May 10, 2013 to June 14, 2013; and that the deadline to exchange further
17 information and documents to facilitate mediation occur prior by May 31, 2013. The parties have
18 agreed to adhere to the other dates set forth in this Court’s November 21 Order, which includes
19 filing a Joint Case Management Statement by May 10, 2013 and attending the May 17, 2013 Case
20 Management Conference. Interim Class Counsel will request at the initial Case Management
21 Conference that the Court establish a pre-trial schedule.

22 10. For the reasons outlined above, the parties submit that good cause exists to modify
23 the mediation deadline, mediation report back date, and document exchange date originally
24 established by this Court’s November 2012 Order.

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STIPULATION

Based on the facts stated above and subject to this Court's approval, the parties stipulate as follows:

- The deadline for the parties to attend mediation shall be continued from April 19, 2013 to **June 7, 2013**.
- The deadline for the parties to report on the results of their mediation shall be continued from May 10, 2013 to **June 14, 2013**.
- By **May 31, 2013**, the parties will complete their exchange information and documents relevant to the parties' dispute that may facilitate settlement, including the information required by General Order No. 56, ¶¶ 2-6.

IT IS SO STIPULATED:

Dated: April 19, 2013.

Jones Day

By: _____

Steven M. Zadavec

Counsel for Defendant
WAL-MART STORES, INC.

Dated: April 19, 2013.

Disability Rights Advocates

By: _____

Kevin Knestrick

Lead Interim Counsel for Consolidated Plaintiffs

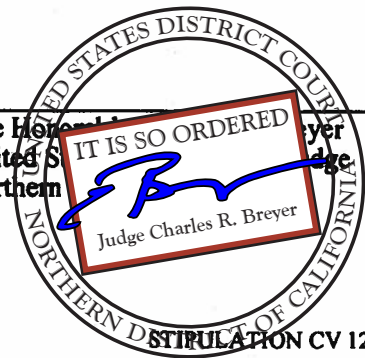
ORDER

The Court has read and considered the parties' Joint Stipulation and finds that good cause exists to grant the relief requested. Pursuant To Stipulation, It Is So Ordered.

Dated: April 22, 2013.

By: _____

The Honorable
United States District Judge
Northern California



IRI-50025v5

STIPULATION CV 12-3885 CRB