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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 AURORA CERVANTES,

10 Plaintiff,

11 v.

12 WAL-MART STORES, INC., et al.,

13 Defendants.

Case No. 1:17-cv-01714-LJO-BAM

ORDER DISCHARGING ORDER TO SHOW
CAUSE
(Doc. 21)

ORDER REGARDING NOTICE OF
SETTLEMENT
(Doc. 22)

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15 On November 9, 2018, the Court issued an order directing counsel for Defendants Wal-
16 Mart Stores, Inc. and Wal-Mart Real Estate Business Trust to show cause why sanctions should
17 not be imposed for the purported failure to communicate with the Voluntary Dispute Resolution
18 Program (“VDRP”) Neutral Attorney, Mr. Michael McKneely, and delaying resolution of this
19 case. (Doc. 21.)

20 On November 15, 2018, Plaintiff’s counsel filed a notice of settlement of this action. (Doc.
21 22.) On the same date, defense counsel J. David Bournazian filed a timely and comprehensive
22 response to the order to show cause. (Doc. 23.)

23 Having reviewed Mr. Bournazian’s response and the attached exhibits, it is evident to the
24 Court that Mr. Bournazian neither failed to communicate with the VDRP Neutral Attorney nor
25 impeded resolution of this action. Indeed, Mr. Bournazian proceeded conscientiously and
26 diligently in this action, and any miscommunication or misdirection in this case generated from
27 the office of the VDRP Neutral Attorney, not counsel. The response makes clear that counsel for
28 the parties settled this action on October 23, 2018, wholly independent of Mr. McKneely and the

1 VDRP process, and despite the lack of direct, responsive communication from Mr. McKneely or
2 his office. What is also clear from the response is that if Plaintiff’s counsel had filed a timely
3 notice of settlement pursuant to Local Rule 160, as he was required to do, then any need for a
4 show cause order would have been obviated, and any concerns regarding communications or
5 delays would have been alleviated. See Local Rule 160(a) (“When an action has been settled or
6 otherwise resolved by agreement of the parties . . . it is the duty of counsel to *immediately* file a
7 notice of settlement or resolution.”) (emphasis added).

8 Based on Mr. Bournazian’s response, and in light of the notice of settlement, the order to
9 show cause will be discharged and the Court will set a deadline for the filing of dispositive
10 documents. Accordingly, IT IS HEREBY ORDERED as follows:

- 11 1. The Order to Show Cause issued on November 9, 2018, is DISCHARGED; and
- 12 2. Pursuant to Local Rule 160, this Court ORDERS the parties, **no later than December**
13 **31, 2018**, to file appropriate papers to dismiss or conclude this action in its entirety;
14 and
- 15 3. Failure to comply with this order may be grounds for the imposition of sanctions on
16 counsel or parties who contributed to violation of this order. See Local Rule 160 and
17 Local Rule 272.

18
19 IT IS SO ORDERED.

20 Dated: November 16, 2018

/s/ Barbara A. McAuliffe
21 UNITED STATES MAGISTRATE JUDGE