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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

KEVIN JOHNSON, individually and on
behalf of all others similarly situated

Plaintiff,

v.

WALMART INC.,

Defendant.

Case No. 1:20-cv-01360-DAD-JLT

Honorable Dale A. Drozd

**STIPULATION TO STAY DISCOVERY
PENDING RESOLUTION OF MOTION TO
COMPEL ARBITRATION**

1 **TO THE HONORABLE COURT:**

2 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Kevin Johnson
3 (“Plaintiff”) and Defendant Walmart Inc. (“Defendant”), by and through their respective attorneys of
4 record, as follows:

5 WHEREAS, Plaintiff commenced the instant action on September 23, 2020;

6 WHEREAS, on December 14, 2020, Plaintiff filed his Second Amended Complaint (ECF No.
7 19), which included new factual allegations regarding Plaintiff’s alleged purchase of tires and tire
8 services from Defendant, which are at issue in this matter;

9 WHEREAS, on December 28, 2020, Defendant filed a Motion to Compel Arbitration and to
10 Dismiss or Stay (ECF No. 20), which seeks to compel Plaintiff to arbitrate his claims on an individual
11 basis, and if such motion is granted, also moves the Court to dismiss this action or stay the proceedings
12 while arbitration is ongoing;

13 WHEREAS, Defendant’s Motion to Compel Arbitration and to Dismiss or Stay has been
14 noticed for hearing on February 2, 2021;

15 WHEREAS, the United States District Court for the Eastern District of California is in the
16 midst of a judicial emergency that has severely constrained available judicial resources;

17 WHEREAS, on September 25, 2020, this Court issued a Standing Order in Light of Ongoing
18 Judicial Emergency in the Eastern District of California (ECF No. 4-3), recognizing that in light of the
19 judicial emergency, “the shortfall in judicial resources will seriously hinder the administration of
20 justice throughout this district, but the impact will be particularly acute in Fresno” where this matter is
21 pending;

22 WHEREAS, on December 7, 2020, “[i]n light of the current posture” of the case, the Court
23 continued the Initial Scheduling Conference in this matter until February 16, 2021 (ECF No. 18), and
24 no case management deadlines or trial dates have been set;

25 WHEREAS, the Parties anticipate that discovery in this matter may be substantial and would
26 require attention from the Court while Defendant’s Motion to Compel Arbitration and to Dismiss or
27 Stay is pending;

1 WHEREAS, Plaintiff and Defendant agree that the ongoing judicial emergency warrants a stay
2 of discovery and other case proceedings pending resolution of Defendant's Motion to Compel
3 Arbitration and to Dismiss or Stay;

4 NOW THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiff and Defendant,
5 subject to the Court's approval, that all discovery shall be stayed in this matter pending final resolution
6 of Defendant's Motion to Compel Arbitration and to Dismiss or Stay. In addition, all case proceedings
7 including the Initial Scheduling Conference currently scheduled for February 16, 2021, shall be
8 continued until no earlier than fifteen (15) calendar days after final resolution of Defendant's Motion to
9 Compel Arbitration and to Dismiss or Stay.

10 SO STIPULATED.

11
12 Dated: January 6, 2021

YOON LAW, APC

13
14 By /s/ Brian G. Lee (as authorized on Jan. 5, 2021)
Brian G. Lee

15 Attorneys for Plaintiff Kevin Johnson

16 Dated: January 6, 2021

AKIN GUMP STRAUSS HAUSER & FELD LLP

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18 By /s/ Michael J. Stortz
Michael J. Stortz

19 Attorneys for WALMART INC.
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1 **[PROPOSED] ORDER**

2 Based upon the stipulation of the parties, the Court **ORDERS:**

3 1. No discovery may occur until the Court¹ conducts the scheduling conference and issues
4 a scheduling order.

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6 IT IS SO ORDERED.

7 Dated: **January 6, 2021**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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27 ¹ The Court does not intend, at this time, to schedule the case until the motion to remand is determined. However,
28 it declines to vacate the conference, because it is concerned that the matter may be overlooked otherwise. Rather, it will
continue the conference sua sponte, as needed.