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5 Attorneys for Plaintiff

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UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA

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11 ETTA CARLSON,  
 12 Plaintiff,

Case No.: 2:13CV-1186-LKK-EFB

13 v.

**STIPULATION AND ORDER GRANTING  
 LEAVE TO FILE FIRST AMENDED  
 COMPLAINT**

14 KOHL'S DEPARTMENT STORES, INC., and  
 DOES 1 through 10, inclusive,  
 15 Defendants.

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17 Plaintiff ETTA CARLSON and Defendant KOHL'S DEPARTMENT STORES, INC., by and  
 18 through their respective counsels, submit the following Joint Stipulation and request that the  
 19 Court grant Plaintiff leave to file a First Amended Complaint pursuant to Rule 15(a) of the  
 20 Federal Rules of Civil Procedure:

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**STIPULATION**

- 22 1. Plaintiff filed her complaint on April 2, 2013 in Sacramento County Superior Court,  
 23 naming KOHL'S DEPARTMENT STORES, INC. (hereinafter referred to as "KOHL'S")  
 24 and DOES 1 through 10 as defendants;
- 25 2. On June 13, 2013, Defendant KOHL'S filed its answer and demand for jury trial in  
 26 Sacramento County Superior Court and removed this case to the Eastern District of  
 27 California;

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3. On June 17, 2013, Plaintiff discovered that the true identity of defendant DOE 1 was GARY WULZEN. GARY WULZEN struck plaintiff in the back with a pallet jack / cargo truck on the date of the incident, and is a resident of the State of California, County of Sacramento; and

4. Plaintiff should be granted leave to amend to file her First Amended Complaint to name defendant GARY WULZEN as an additional defendant, a copy of which is attached hereto as **Exhibit "A."**

Good cause exists because Plaintiff just learned on June 17, 2012, after Defendant KOHL'S had removed this case to the Eastern District of California, that GARY WULZEN was the name of the KOHL'S employee who struck Plaintiff with a pallet jack.

IT IS SO STIPULATED:

DATED: Aug. 8, 2013

**DREYER BABICH BUCCOLA WOOD CAMPORA, LLP**

*/s/ Larry Q. Phan for Christoher W. Wood*  
By: \_\_\_\_\_  
Christopher W. Wood, Esq.  
Attorneys for Plaintiff  
ETTA CARLSON

DATED: Aug. 3, 2013

**MANNING & KASS, ELLROD,  
RAMIREZ, TRESTER, LLP**

*/s/ Jeffrey M. Lenkov*  
By: \_\_\_\_\_  
Jeffrey M. Lenkov, Esq.  
Attorneys for Defendant  
KOHL'S DEPARMENT STORES, INC.

1 **ORDER**

2 Good cause appearing therefor, IT IS HEREBY ORDERED that plaintiff is granted leave  
3 to file the First Amended Complaint, which is attached hereto as **Exhibit "A."**

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5 DATED: August 8, 2013.

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7 LAWRENCE K. KARLTON  
8 SENIOR JUDGE  
9 UNITED STATES DISTRICT COURT

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**EXHIBIT A**

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ETTA CARLSON,

Case No.: 2:13CV-1186-LKK-EFB

Plaintiff,

**FIRST AMENDED COMPLAINT FOR  
PERSONAL INJURIES**

v.

KOHL'S DEPARTMENT STORES, INC.,  
GARY WULZEN and DOES 1 through 10,  
inclusive,

Defendants. /

**FIRST CAUSE OF ACTION**

**(Personal Injury: ETTA CARLSON)**

Plaintiff ETTA CARLSON complains against Defendants KOHL'S DEPARTMENT STORES, INC., GARY WULZEN and DOES 1 through 10 and alleges as follows:

1. The true names and capacities -- whether individual, corporate, associate or otherwise -- of Defendants DOES 1 through 10, are unknown to Plaintiff, who therefore sues such DOES by such fictitious names. Plaintiff will amend this Complaint to show their true names and capacities when the same have been ascertained. Each of the Defendants, and DOES 1 through 10, are legally responsible in some manner -- negligently, in warranty, strictly, or otherwise -- for the incident that is the subject of this Complaint.

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2 2. Plaintiff is now, and at all times herein mentioned was, a citizen of and resident  
3 within the County of Eldorado, State of California. Plaintiff further alleges that each Defendant  
4 is a citizen and resident of, or doing business within, the County of Sacramento, State of  
5 California. The amount in controversy is in excess of the minimal jurisdictional limits of this  
6 Court.

7 3. That it is unknown by Plaintiff at this time whether Defendants, KOHL'S  
8 DEPARTMENT STORES, INC., GARY WULZEN and DOES 1 through 10, are doing business as a  
9 partnership, corporation or other type of entity, and Plaintiff will ask leave to amend this  
10 pleading to set forth their true names and capacities when the same have been ascertained.

11 4. Plaintiff is informed and believes and upon said information and belief alleges  
12 that at all times herein mentioned, Defendants, and each of them, are, and for a long time  
13 prior thereto, were owners and/or in possession of the certain premises located at 1013 Riley  
14 Street, Folsom, California.

15 5. That Plaintiff is informed and believes and thereon alleges that, at all times  
16 herein mentioned, Defendants, GARY WULZEN and DOES 2 through 5, and each of them, were  
17 acting within the course and scope of employment by Defendants, KOHL'S DEPARTMENT  
18 STORES, INC., and DOES 6 through 10, and each of them.

19 6. That on or about October 25, 2012, Plaintiff ETTA CARLSON, while legally on the  
20 premises as described hereinabove, was looking at a bedding display in the bedding  
21 department when she was struck in the back by a pallet jack / cargo truck that was loaded  
22 with merchandise and being pushed by Defendant GARY WULZEN, causing injuries and  
23 damages to Plaintiff.

24 7. That at said time and place, Defendants, and each of them, negligently caused,  
25 permitted, constructed, managed and maintained, inspected, supervised, etc., said cargo truck  
26 permitting them to be in a dangerous, defective and hazardous condition in an area allowed for  
27 usage of persons lawfully on the premises.

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