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*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT FOR THE  
 EASTERN DISTRICT OF CALIFORNIA**

SHARIDAN STILES, *et al.*,

Plaintiffs,

v.

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

Defendants.

**CASE NO.:**

**2:14-cv-2234-MCE-CMK**

**PLAINTIFFS' APPLICATION  
 FOR AN ORDER  
 SHORTENING TIME TO  
 HEAR MOTION TO STRIKE  
 DEFENDANTS' SECOND  
 MOTION TO DISMISS**

**DECLARATION OF JAMIE L.  
 MILLER**

**ORDER SHORTENING TIME**

**The Honorable Morrison C.  
 England, Jr.**

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Plaintiff requests that this Court enter an Order in response to this Application providing that any responses to the Motion to Strike Defendants' Second Motion to Dismiss be submitted by 5:00 p.m. on October 12, 2016, that any reply in support of the Motion to Strike Defendants' Second Motion to Dismiss be filed by 5:00 p.m. on October 13, 2016, and that the Motion to Strike Defendants' Second Motion to Dismiss be heard as soon as the Court is available to hear it.

*Plaintiffs' Application for an Order Shortening Time to Hear Motion to Strike*

1           Good cause exists for this application. On October 6, 2016, Defendants filed a second  
2 Motion to Dismiss (Dkt. No. 71) that violates Fed. R. Civ. P. 12(g)(2) because it makes  
3 arguments that were available to them when the first Motion to Dismiss was filed.  
4 Defendants filed the first Motion to Dismiss two months ago on August 8, 2016. (Dkt. No. 64  
5 and 65.) Plaintiffs filed an Opposition over a month ago on September 6, 2016. (Dkt. No.  
6 69.) Briefing on that motion completed on October 7, 2016 (Dkt. No. 73 and 74.) In good  
7 faith, counsel for Plaintiffs conferred with counsel for Defendants, and the parties stipulated  
8 on a briefing schedule and a hearing date for the first Motion to Dismiss that accommodated  
9 the parties' existing conflicts in other matters. (Dkt. No. 66 and 68.) A Second Motion to  
10 Dismiss was never mentioned during the course of those discussions. (Miller Decl., ¶ 3.) Any  
11 opposition to Defendants' Second Motion to Dismiss would otherwise be due on October 20,  
12 2016, and thus, Plaintiffs respectfully request that the Court hear the Motion to Strike before  
13 any opposition to the Second Motion to Dismiss is due. In addition, having previously worked  
14 out a schedule for briefing on the Motion to Dismiss, counsel for Plaintiffs now have conflicts  
15 in other matters that would require additional time to file an opposition to the Second Motion  
16 to Dismiss, if the Motion is not stricken. (Miller Decl., ¶ 3.)

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Plaintiffs thus respectfully request that this Court exercise the authority granted to it by Fed. R. Civ. P. 6(c)(1) and Local Civil Rule 144(e) here and shorten the time by which the Motion to Strike Defendants' Second Motion to Dismiss will be briefed and heard.

Respectfully submitted:

Dated: October 10, 2016

**ALIOTO LAW FIRM**

/s Jamie L. Miller

Jamie L. Miller (SBN 271452)

Joseph M. Alioto (SBN 42680)

ALIOTO LAW FIRM

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*Attorney for Plaintiffs Sharidan Stiles and Stiles  
4 U, Inc.*

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I, Jamie L. Miller, declare as follows:

1. I am an associate of the Alioto Law Firm, counsel of record for Plaintiff

2. Concurrent with this application, Plaintiff has moved to strike Defendants'

3. Good cause exists to grant this application. Counsel for Plaintiff conferred

4. On October 9, 2016, I sent counsel for the Defendants an electronic mail at the

1 “anticipate[s] that we oppose the ex parte.” She also stated that she is traveling to North  
2 Carolina for a two-day trial. As of the filing of this Application, counsel for AI has not  
3 responded.

4 I declare under the penalty of perjury under the laws of the United States of America  
5 that the foregoing is true and correct, and that this declaration was executed on October 10,  
6 2016, at San Francisco, California.  
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9 /s/ Jamie L. Miller

10 Jamie L. Miller  
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**ORDER**

The parties to this action have had a Motion to Dismiss pending before this Court and set to be heard on November 3, 2016 for some time. On October 6, 2016, Defendant Wal-Mart Stores, Inc. filed a second Motion to Dismiss additional claims in Plaintiff's Second Amended Complaint (which motion was joined by Defendant American International Industries, Inc.), also noticed for November 3, 2016. On October 10, 2016 Plaintiffs Sharidan Stiles and Stiles 4 U, Inc. filed a Motion to Strike Defendants' Second Motion to Dismiss, noticed for November 17, 2016, as well as an Ex Parte Application for an Order Shortening Time to Hear that Motion to Strike.

Plaintiffs' Application for an Order Shortening Time is DENIED; Plaintiff's Motion to Strike will be heard as noticed on November 17, 2016.

On its own motion, the Court hereby consolidates all pending motions and continues those currently noticed for November 3, 2016 to November 17, 2016. Plaintiff's deadline to file an Opposition to Defendants' Second Motion to Dismiss is therefore extended from October 20 to November 3, 2016. Should Plaintiff require additional time beyond November 3, the Court anticipates that the parties will be able to stipulate to an additional extension.

IT IS SO ORDERED.

Dated: October 18, 2016

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE