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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 ANDREA RESNICK, ET AL.) Case No. C 09-cv-0002 PJH
20)
21 Plaintiff,)
22)
23 vs.)
24)
25 WALMART.COM USA LLC, ET AL.,)
26)
27 Defendants.)

28 **This document relates to:**) **ADMINISTRATIVE MOTION TO**
) **CONSIDER WHETHER CASES SHOULD**
) **BE RELATED (Civil Local Rule 3-12)**

ADRIENNE BELAI)
)
) Plaintiff,)
)
) vs.) The Honorable Phyllis J. Hamilton
)

WALMART.COM USA LLC, ET AL.,)
)
) Defendants.)

Case No. C:09-cv-1740-EMC)
)
)

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that a related case, *Adrienne Belai v. Walmart.com USA, LLC*,
3 *et al.*, 3:09-cv-1740 (“Belai”) was filed on April 21, 2009, in the United States District Court for
4 the Northern District of California. Pursuant to Civil Local Rules 3-12(b) and 7-11 of the
5 United States District Court of the Northern District of California, and Rule 7.5(a) of the Rules
6 of Procedure of the Judicial Panel on Multidistrict Litigation, Plaintiff Adrienne Belai
7 (“Plaintiff”) submits this Administrative Motion to Consider Whether Cases Should Be Related.

8 **I. Related Cases**

9 The *Belai* action should be related to *Resnick v. Walmart.com USA LLC, et al.*, Case No.
10 C 09-cv-0002 PJH (“*Resnick*”) and *In re Online DVD Rental Antitrust Litigation*, MDL No.
11 2029 (Master File No. M:09-cv-2029-PJH), transferred to the Honorable Phyllis J. Hamilton by
12 Transfer Order of the Judicial Panel on Multidistrict Litigation (“JPML”), dated April 10, 2009.

13 Pursuant to Local Rule 3-12, Judge Hamilton has previously related the following
14 matters to the *Resnick* action:

15 *O’Connor v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-00096 PJH;

16 *Endzweig v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0111 PJH;

17 *Schmitz v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0116 PJH;

18 *Lynch v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0138 PJH;

19 *Groce v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0139 PJH;

20 *Sivek v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0156 PJH;

21 *Faris v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-180 PJH;

22 *Slobodin v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0225 PJH;

23 *Anthony v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0236 PJH;

24 *Polk-Stamps v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0244 PJH;

25 *Scheller, Jr. v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0274 PJH;

26 *Chapman v. Netflix, Inc., et al.*, Case No. C 09-cv-0294 PJH;

27 *Orozco v. Netflix, Inc., et al.*, Case No. C 09-cv-0297 PJH;

28 *Landels v. Netflix, Inc., et al.*, Case No. C 09-cv-0340 PJH;

1 *Grime v. Netflix, Inc., et al.*, Case No. C 09-cv-0349 PJH;
2 *Meyer v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0361 PJH;
3 *Randall v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0368 PJH;
4 *Hirsch v. Netflix, Inc., et al.*, Case No. C 09-cv-0375 PJH;
5 *Miscioscia v. Netflix, Inc., et al.*, Case No. C 09-cv-0377 PJH;
6 *Patras v. Netflix, Inc., et al.*, Case No. C 09-cv-0378 PJH;
7 *Chatelian v. Netflix, Inc., et al.*, Case No. C 09-cv-0391 PJH;
8 *Weiner v. Walmart. Com USA LLC, et al.*, Case No. C 09-cv-0398 PJH;
9 *Millrood v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0399 PJH;
10 *Kober v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0400 PJH;
11 *Lacabe v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0402 PJH;
12 *Roy v. Netflix, Inc., et al.*, Case No. C 09-cv-0434 PJH;
13 *Bruno v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0445 PJH;
14 *Zaker v. Netflix, Inc., et al.*, Case No. C 09-cv-0447 PJH;
15 *Parikh v. Netflix, Inc., et al.*, Case No. C 09-cv-0496 PJH;
16 *Johnson v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0553 PJH;
17 *Gannon v. Walmart.com USA LLC, et al.*, Case No. C 09-cv-0554 PJH;
18 *Haddad v. Netflix, Inc., et al.*, Case No. C 09-cv-0958; and
19 *Wiebe v. Netflix, Inc., et al.*, Case No. C 09-cv-01274.

20 After being related to *Resnick*, these actions were centralized by the JPML in *In Re:*
21 *Online DVD Rental Antitrust Litigation*, MDL No. 2029, and assigned to the Honorable Phyllis
22 J. Hamilton.

23 On April 15, 2009, Judge Hamilton entered the JPML Order and created MDL Master
24 Docket M:09-cv-2029 PJH. On April 30, 2009, this Court entered Stipulation and Order Re
25 Centralization of Related Cases In MDL No. 2029 (the “Centralization Order,” which is
26 attached as Exhibit B to the Declaration of Lauren C. Russell In Support of Administrative
27 Motion to Consider Whether Cases Should Be Related). The Centralization Order defined
28 “Future Related Cases” as “all cases that have been or may be filed in the Northern District of

1 California and related to *Resnick* under Local Civil Rule 3-12.” The Order went on to provide
2 that “[a]ll Future Related Cases shall be designated as Tag Along Actions within the meaning of
3 the JPML Rules, and shall be centralized as soon as is practicable for consolidated or
4 coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407 with those cases already on the
5 Master Docket pending in MDL No. 2029.”

6 The *Belai* action is a “Future Related Case” within the meaning of this Court’s
7 Centralization Order and therefore should be designated as a Tag Along Action and centralized
8 as soon as is practicable for consolidated or coordinated pretrial proceedings with those cases
9 already pending in MDL No. 2029.

10 **II. Relationship of the Actions**

11 This Administrative Motion is made on the grounds that the *Belai* action, the *Resnick*
12 action, and the related multi-district litigation identified above involve substantially the same
13 defendants, and require determination of the same or substantially the same questions of fact and
14 law and concern the same wrongful acts and occurrences.

15 Specifically, all cases involve allegations that defendants conspired to divide the online
16 DVD rental market in violation of Section 1 of the Sherman Act, 15 U.S.C. §§ 1 and 2. Given
17 the closely related nature of these cases, each involving substantially similar questions of law
18 and fact, the assignment of these actions to the same judge would serve the interests of judicial
19 economy and avoid the potential for conflicting rulings.

20 *Belai* was filed in the Northern District of California, the district to which the MDL
21 Panel transferred *In re Online DVD Rental Antitrust Litigation*. Pursuant to 28 U.S.C. §1407(a)
22 and MDL Panel Rule 7.5(a), *Belai* need not be transferred by the MDL Panel but should be
23 considered for relation by the transferee Judge.

24 Pursuant to Local Rule 3-12(b)(2), it appears likely that there will be an undue
25 burdensome duplication of labor and expense or the possibility of conflicting results if the cases
26 are conducted before different Judges. The MDL Panel found that centralization was necessary
27 in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve
28

1 the resources of the parties, their counsel and the judiciary. The same efficiencies will occur if
2 the Court relates *Belai* to *Resnick* and *In re Online DVD Rental Antitrust Litigation*.

3 Dated: May 11, 2009

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