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 15 Inc.

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA

18 JOHN UTNE, on behalf of himself, all others  
 19 similarly situated, and the general public;

20 Plaintiff,

21 vs.

22 HOME DEPOT U.S.A., INC., a Delaware  
 23 Corporation; and DOES 1-50, inclusive,

24 Defendants.

CASE No. 3:16-cv-01854-RS

**JOINT STIPULATION AND [PROPOSED]  
 ORDER RE PRE-TRIAL SCHEDULE  
 AND TRIAL DATE**

Action Filed: March 8, 2016

**JOINT STIPULATION**

This Joint Stipulation to extend expert deadlines, defendant's decertification motion briefing deadlines, pretrial conference and trial date is made by and between plaintiff John Utne and defendant Home Depot U.S.A., Inc., through their respective counsel of record:

1. On May 20, 2020, the parties stipulated to a schedule to ensure sufficient access to expert discovery before briefing defendant's decertification motion. ECF No. 192. The Court entered an Order amending the schedule on May 26, 2020. ECF No. 193.

2. The parties have exchanged rebuttal reports in accordance with the current schedule and have been working diligently to complete expert discovery.

3. In light of developments during the expert-discovery period, including the opinions contained in the parties' rebuttal reports and the accompanying document productions, the parties have conferred and agreed it would assist the Court and parties to allow plaintiff's expert Dr. Jon A. Krosnick and defendant's expert Mr. Robert Crandall to submit supplemental expert reports.

4. Because much of the expert discovery relates to defendant's pending motion for decertification, the parties also believe it is appropriate to continue the briefing schedule and hearing date for that motion. Further, defendant's decertification motion might impact the parties' preparation for the pretrial conference and trial, thus the parties believe it is necessary to continue those dates.

5. Accordingly, the parties respectfully request the Court adopt the following proposed revised case schedule:

<b>Event</b>	<b>Current Date</b>	<b><del>XXXXXXX</del> Proposed Date</b>
Rebuttal Expert Designation Deadline	April 30, 2020	Completed
Deadline for Supplemental Expert Reports of Dr. Jon A. Krosnick and Mr. Robert Crandall	N/A	September 21, 2020
Deadline for Depositions of the Parties' Currently-Designated Experts	August 14, 2020	October 5, 2020
Completion of Expert Discovery	August 14, 2020	October 5, 2020
Plaintiff's Opposition to Defendant's Decertification Motion Deadline	September 1, 2020	November 5, 2020

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2	Defendant's Reply ISO Defendant's Decertification Motion Deadline	October 1, 2020	November 25, 2020
3	Last Day for Hearing Pretrial Motions	October 15, 2020	December 10, 2020
4			(or the earliest date thereafter available to the Court and agreed upon by both sides)
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7	Hearing Date for Defendant's Decertification Motion	October 15, 2020	December 10, 2020
8			(or the earliest date thereafter available to the Court and agreed upon by both sides)
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11	Pretrial Conference	January 6, 2021, 10:30 a.m.	February 10, 2021, 10:00 a.m.
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13	Trial Date	January 25, 2021	March 1, 2021

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15           6.       The parties reserve all rights as to the appropriateness of the content of the

16 supplemental reports, including the right to seek to exclude any opinions contained therein. Home

17 Depot reserves the right to include in this stipulated supplemental report of Mr. Crandall the same

18 or similar information contained in the prior Supplemental Declaration of Robert Crandall, which

19 Home Depot sought leave to file on June 30, 2020. *See* ECF No. 195.

20           7.       It is Plaintiff's position that the Magistrate Judge already issued an order excluding

21 new expert opinions based on a change in company policy that was put in place in 2018, but not

22 disclosed to Plaintiff until 2020. *See* ECF No. 203. It is further Plaintiff's position that the

23 purpose of the requested extension is to allow the experts time to review, analyze and form

24 opinions based on the large volume of underlying support materials for each side's rebuttal report,

25 unrelated to the materials discussed in ECF No. 195.

26           8.       Plaintiff further contends that extensive additional discovery would be required if

27 the experts were permitted to base their opinions on the newly-disclosed policy change previously

28 excluded by Magistrate Judge Kim, which would include, inter alia: (1) deposing some or all of

1 the managers employed by Home Depot at the locations included in Mr. Crandall's study  
2 discussed in ECF No. 195 to determine facts such as whether they were aware of the new policy, if  
3 they followed the new policy, if they enforced the new policy, etc.; (2) deposing a sample of new  
4 hires at the stores included in Mr. Crandall's study to determine if the new policy was ever  
5 disclosed to them, and related issues, and (3) possibly having to retain a new expert and/or expand  
6 the scope of Dr. Krosnick's current study to address the new issues raised in the Crandall study  
7 discussed in ECF N. 195.

8           9.       It is Home Depot's position that the parties' agreement to supplemental reports has  
9 changed the circumstances that provided the basis for Magistrate Judge Kim's order, such that this  
10 supplement is now appropriate. *See* ECF No. 203 ("The District Court set a schedule for expert  
11 reports long ago, and those deadlines have passed.").

12           10.       Plaintiff disagrees and is reserving his right to move to strike this material from Mr.  
13 Crandall's supplemental report. However, in the interest of moving the action forward and  
14 minimizing disputes, the parties will address this issue at a later time, to the extent it is necessary.

15           11.       To date, the following deadlines in this action have been modified: Stipulation to  
16 Continue Initial Case Management Conference and Order granting same (ECF Nos. 17 and 18);  
17 Stipulation to Continue Class Certification Briefing and Hearing and Order granting same (ECF  
18 Nos. 35 ad 36); Stipulation to Continue Briefing and Hearing and Order granting same (ECF Nos.  
19 110 and 111); Defendant's Motion to Enlarge Time to Oppose Plaintiff's Motion for Partial  
20 Summary Judgment and Order granting same (ECF Nos. 122 and 124); Stipulation to Extend  
21 Plaintiff's Deadline to Oppose Motion for Partial Summary Judgment and Order Granting Same  
22 (ECF No. 130); Stipulation to Extend Expert Deadlines, Defendant's Decertification Motion  
23 Deadline, Pretrial Conference and Trial Date (ECF No. 144); Stipulation to Extend Expert  
24 Deadlines, Decertification Motion Deadline, Pretrial Conference and Trial Date (ECF No. 151);  
25 Stipulation to Set Briefing Schedule and Hearing Date for Defendant's Motion to Decertify (ECF  
26 No. 155); Stipulation to Extend Expert Deadlines, Defendant's Decertification Motion Briefing  
27 Deadlines, Pretrial Conference and Trial Date (ECF No. 180); and Stipulation to Extend Expert  
28 Deadlines, Defendant's Decertification Motion Briefing Deadlines, and Hearing on Motion to

1 Decertify (ECF No. 187); Stipulation and Order re: Pre-Trial Schedule and Trial Date (ECF No.  
2 189); and Stipulation and Order re: Pre-Trial Schedule and Trial Date (ECF No. 193).

3 IT IS SO STIPULATED.

4 DATED: August 9, 2020

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

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By /s/ Shon Morgan

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Shon Morgan  
Attorneys for Defendant Home Depot U.S.A., Inc.

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DATED: August 9, 2020

SETAREH LAW GROUP

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By /s/ Shaun Setareh

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Shaun Setareh  
Attorneys for Plaintiff John Utne and the Class

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Pursuant to Civil Local Rule 5-1(i)(3), the filer attests that concurrence in the filing of this

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document has been obtained from each of the above signatories.

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~~PROPOSED~~ ORDER

**GOOD CAUSE APPEARING, IT IS HEREBY ORDERED** that the following deadlines and hearing date are entered:

Event	Date
Rebuttal Expert Designation Deadline	Completed
Deadline for Supplemental Expert Reports of Dr. Jon A. Krosnick and Mr. Robert Crandall	September 21, 2020
Deadline for Depositions of the Parties' Currently-Designated Experts	October 5, 2020
Completion of Expert Discovery	October 5, 2020
Plaintiff's Opposition to Defendant's Decertification Motion Deadline	November 5, 2020
Defendant's Reply ISO Defendant's Decertification Motion Deadline	November 25, 2020
Last Day for Hearing Pretrial Motions	December 10, 2020 (or the earliest date thereafter available to the Court and agreed upon by both sides)
Hearing Date for Defendant's Decertification Motion	December 10, 2020 (or the earliest date thereafter available to the Court and agreed upon by both sides)
Pretrial Conference	February 10, 2021, 10:00 a.m.
Trial Date	March 1, 2021

Dated: 8/10/2020

  
 Honorable Richard Seeborg  
 United States District Judge