

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN UTNE,  
Plaintiff,  
  
v.  
  
HOME DEPOT U.S.A., INC.,  
Defendant.

Case No. [16-cv-01854-RS](#)**ORDER REQUIRING PARTIES TO  
MEET AND CONFER**

Plaintiff John Utne moves for leave to file a third amended class action complaint, to shorten time on that motion, and to modify various case scheduling deadlines applicable to defendant's pending motion for partial summary judgment and plaintiff's impending motion for class certification. All case scheduling deadlines are hereby vacated, as is the scheduled hearing on defendant's pending motion for partial summary judgment. Plaintiff is temporarily relieved of its obligation to file opposition to that motion.

The parties are hereby ordered, within the next seven days, to meet and confer in order to attempt to stipulate to plaintiff's filing a third amended complaint (keeping in mind that Rule 15 is to be applied "with extreme liberality," *see Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003)), and to attempt to stipulate to new briefing schedules and hearing dates for the motions for partial summary judgment and class certification (and for the motion for leave to file a third amendment complaint, should the parties fail to stipulate to its filing). In a joint letter, the parties must promptly inform the Court of the fruits of their efforts. If a third

1 amended complaint is filed and defendant seeks to challenge any new claim it raises, defendant  
2 may voluntarily withdraw its motion for partial summary judgment without prejudice and re-file a  
3 more expansive motion, or else file a motion to dismiss any new claim.

4  
5 **IT IS SO ORDERED.**

6  
7 Dated: August 16, 2017

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9 RICHARD SEEBORG  
United States District Judge