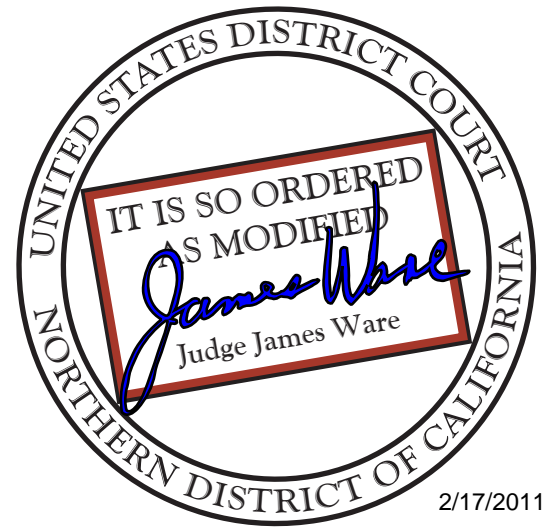


1 DENNIS M. BROWN, Bar No. 126575
 dmbrown@littler.com
 2 MARLENE S. MURACO, Bar No. 154240
 mmuraco@littler.com
 3 KARIN M. COGBILL, Bar No. 244606
 kcogbill@littler.com
 4 LITTLER MENDELSON
 A Professional Corporation
 5 50 W. San Fernando, 15th Floor
 San Jose, CA 95113.2303
 6 Telephone: 408.998.4150

7 Attorneys for Defendant
 WAL-MART STORES, INC.



9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 NISHA BROWN and KATHY
 WILLIAMSON, individually and on behalf
 13 of all others similarly situated,

14 Plaintiffs,

15 v.

16 WAL-MART STORES, INC., and DOES
 17 1-50, inclusive,

18 Defendants.

Case No. C09-03339-JW

**STIPULATION AND [PROPOSED]
 ORDER RESOLVING PLAINTIFFS'
 MOTION TO COMPEL [DKT. NO. 21],
 DEFENDANT'S MOTION FOR
 RELIEF [DKT No. 65, 72], AND DEFENDANT'S
 MOTION FOR RECONSIDERATION [DKT.
 NO. 69]**

19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 Firmwide:100202103.2 015602.6736

1 Pursuant to Local Rule 7-12, Plaintiffs NISHA BROWN and KATHY
2 WILLIAMSON (“Plaintiffs”), and Defendant WAL-MART STORES, INC. (“Defendant”), by and
3 through their counsel, make the following stipulated request:

4 WHEREAS, on March 19, 2010, Plaintiffs’ filed a Motion to Compel discovery (Dkt.
5 No. 21), seeking to compel a further response to Plaintiffs’ Special Interrogatories No. 3, which
6 sought the name, home address, home telephone number and store number of the approximately
7 22,000 putative class members;

8 WHEREAS, on January 28, 2011, Magistrate Judge Grewal issued an Order granting
9 Plaintiffs’ Motion to Compel (Dkt. No. 61), which required that Defendant provide a supplemental
10 response to Special Interrogatory No. 3 by February 14, 2011;

11 WHEREAS, on February 11, 2011, Defendant Wal-Mart filed a Motion for Relief
12 from the nondispositive order issued by Magistrate Judge Grewal (Dkt. No. 65);

13 WHEREAS, pending negotiations over the resolution of the parties’ dispute,
14 Plaintiffs provided Defendant with an extension of time within which to supplement their response
15 to Special Interrogatory No. 3;

16 WHEREAS, the parties have now reached the following stipulated resolution which
17 is intended to fully and finally resolve Plaintiffs’ Motion to Compel (Dkt. No. 21) and Defendant’s
18 Motion for Relief (Dkt. No. 65):

19 1. On January 18, 2011, Wal-Mart provided Plaintiffs with a summary of 34
20 requests for a seat that were (1) made by a Cashier employed in a California Wal-Mart Store; (2)
21 since June 11, 2008; and (3) were either received through Wal-Mart’s accommodations department
22 pursuant to its Accommodation policy and/or received and handled by the appropriate Market
23 Human Resources Manager responsible for the respective Store (the “Summary”). On February 14,
24 2011 February 15, 2011, Wal-Mart provided Plaintiffs with a summary of an additional seven
25 requests for a seat that satisfy the foregoing criteria (the “Supplemental Summary”). The Summary
26 and Supplemental Summary identified the Cashiers by number rather than name. Within two
27 business days of the date on which the Court signs this Order, Wal-Mart will produce the identity
28 and contact information for those Cashiers listed on the Summary and Supplemental Summary, with
Firmwide:100202103.2 015602.6736

1 the exception of (1) those individuals denoted by Wal-Mart as requests 16, 17 and 24, for whom
2 Wal-Mart contends Plaintiffs are in possession of confidential medical information; and (2) those
3 individuals denoted by Wal-Mart as requests 1, 9 25, and 27 as Wal-Mart has previously informed
4 Plaintiffs those individuals were erroneously included on the Summary. Wal-Mart is continuing to
5 sort through information it was provided by the Market Human Resources Managers and, if it
6 determines that there are additional individuals who satisfy the three criteria described above, Wal-
7 Mart will provide Plaintiffs with the identity and contact information for the Cashier at issue, along
8 with a summary of the same type of information previously provided for other individuals listed on
9 the Summary and Supplemental Summary.

10 2. Within two business days of the date on which the Court signs this Order,
11 Wal-Mart will produce the contact information for 500 Cashiers randomly selected from the
12 following eighteen stores: 1840, 1910, 1915, 1922, 1988, 2001, 2025, 2077, 2117, 2297, 2598, 2708,
13 2735, 5156, 5193, 5338, 5425, 5457. Wal-Mart's agreement to resolve the parties' dispute in this
14 manner is not a concession that any sample (including this one) is statistically significant or an
15 appropriate sample for the purposes of class certification (or any other purpose).

16 3. For purposes of this stipulation only "contact information" shall include the
17 individuals' name, last known address, last known telephone number (if any), and store number.

18 4. All contact information produced in this case shall be treated as
19 CONFIDENTIAL subject to the terms of the Stipulated Protective Order (Dkt. No. 30).

20 5. Plaintiffs reserve their right to file a motion to compel production of the
21 contact information for those individuals denoted by Wal-Mart as requests 16, 17 and 24 on the
22 Summary at a later date.

23 **SO STIPULATED.**

24 ///

25 ///

26 ///

27 ///

28 ///

Firmwide:100202103.2 015602.6736

1 Dated: February 15, 2011

2

3

/s/ Marlene Muraco
MARLENE MURACO
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
WAL-MART STORES, INC.

4

5

6

Dated: February 15, 2011

7

8

/s/ Matthew Righetti
MATTHEW RIGHETTI
RIGHETTI GLUGOSKI, P.C.
Attorneys for Plaintiffs
NISHA BROWN and KATHY
WILLIAMSON

9

10

11

12

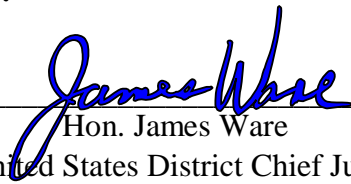
13

14 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

15 Dated: February 17, 2011

16

17


Hon. James Ware
United States District Chief Judge

18

19

20

21

22

23

24

25

26

27

28

Firmwide:100202103.2 015602.6736