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5 Attorneys for Plaintiff

6
 7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF NEVADA**

9 MELISSA STRAWDER-McCURRY,)
)
 10 Plaintiff,)
)
 11 vs.)
)
 12 WAL-MART STORES, INC., d/b/a)
 WALMART, DOES I through X, inclusive,)
 13 and ROE CORPORATIONS I through X,)
 inclusive,)
 14 Defendants.)

CASE NO: 2:13-cv-00618-JCM-NJK

JOINT PRETRIAL ORDER

16 Following pretrial procedures in this cause,

17 IT IS ORDERED:

18 **I.**

19 This is an action for personal injury in which Plaintiff, Melissa Strawder-McCurry, alleges
 20 that on or about December 17, 2010, she was an invitee/patron at Wal-Mart Store #1560, owned
 21 and operated by Defendant Walmart. Plaintiff alleges that as she was entering the store she
 22 slipped and fell on the rain slickened entry area. Plaintiff alleges Defendant, Walmart, was
 23 negligent and the cause of her injuries.

24 Defendant Walmart alleges that there was no dangerous condition at the incident site.
 25 Defendant further contends that Wal-Mart had no duty to warn of the rainy conditions outside,
 26 that Plaintiff knew of the rainy conditions prior to her fall and that if she sustained any injuries in
 27 the fall, it was a mere accident, and not the result of the negligence on the part of Walmart.

1 II.

2 Statement of jurisdiction: The Court has diversity jurisdiction pursuant to 28 U.S.C. 1332
3 and 28 U.S.C. 2201. Plaintiff Melissa Strawder-McCurry was a resident of the State of Nevada
4 and Defendant Wal-Mart was a Delaware corporation doing business in Clark County, Nevada.

5 III.

6 The following facts are admitted by the parties and require no proof:

- 7 a. The incident that is the subject of this suit occurred on December 17, 2010;
- 8 b. The location of the incident was the Wal-Mart property located at 6005
9 South Eastern Avenue, Las Vegas, Nevada;
- 10 c. This Wal-Mart Store is operated by Wal-Mart Stores, Inc.

11 IV.

12 The following facts, though not admitted, will not be contested at trial by evidence to the
13 contrary:

14 None.

15 V.

16 The following are the issues of fact to be tried and determined upon trial:

- 17 a. Whether Defendant contributed to Plaintiff's fall on December 17, 2010;
- 18 b. Whether Plaintiff was injured as a result of the incident on December 17,
19 2010;
- 20 c. Whether Plaintiff's medical treatment was for injuries caused by the
21 incident on December 17, 2010;
- 22 d. Whether Plaintiff's medical treatment for her alleged injuries was
23 reasonable;
- 24 e. Whether Plaintiff's alleged injuries as a result of the December 17, 2010,
25 incident will require future care or treatment;
- 26 f. Whether Defendant's negligence was a substantial factor in causing
27 Plaintiff's injury.

1 VI.

2 The following are the issues of law to be tried and determined upon trial:

- 3 a. Premises Liability
4 b. Negligence

5 VII.

6 a. The following exhibits are hereby identified, subject to the objections detailed
7 under subsection c.

8 **PLAINTIFF'S EXHIBITS:**

- 9 1. Medical and billing records for identified medical providers
10 2. December 17, 2010, Incident Report
11 3. Three color photographs of location of fall (exhibits in Kevin Prentice
12 deposition)
13 4. Plaintiff reserves the right to use any exhibits identified in Defendant's
14 Disclosures

15 **DEFENDANT'S EXHIBITS:**

- 16 1. December 17, 2010, Incident Report
17 2. Three color photographs of incident scene taken December 17, 2010
18 3. Two DVD discs containing surveillance footage from Walmart Store 1560,
19 dated December 17, 2010
20 4. Request for Judicial Notice: Almanac weather recording for date of incident
21 5. Medical records of Plaintiff's treatment by treating providers identified in
22 Defendant's witness list
23 6. Defendant reserves the right to use any exhibits identified in Plaintiff's
24 Disclosures

25 b. As to the following exhibits, the parties have reached the stipulations stated
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27
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1 1. Set forth stipulations as to Plaintiff's exhibits: To the extent the parties are
2 unable to reach stipulations regarding the admissibility of Plaintiff's
3 proposed exhibits, Defendant reserves the right to lodge objections to
4 Plaintiff's proposed exhibits pursuant to FRE 402, 403, 801, 802, 803, 701,
5 702, 703, 901, and 902.

6 2. Set forth stipulations as to Defendant's exhibits: Plaintiff stipulates to the
7 admission of medical records of any of Defendant's identified medical
8 providers also identified by Plaintiff.

9 c. As to the following exhibits, the party against whom the same will be offered
10 objects to their admission upon the grounds stated:

11 1. Objections to Plaintiff's exhibits: To the extent the parties are unable to
12 reach stipulations regarding the admissibility of Plaintiff's proposed
13 exhibits, Defendant reserves the right to lodge objections to Plaintiff's
14 proposed exhibits pursuant to FRE 402, 403, 801, 802, 803, 701, 702, 703,
15 901, and 902.

16 2. Objections to Defendant's exhibits: Plaintiff objects to any exhibits
17 identified as taken from December 12, 2010. Plaintiff objects to a weather
18 recording not produced to Plaintiff and DVD discs not produced to Plaintiff

19 d. The parties will offer the following depositions:

- 20 1. Deposition of Melissa Strawder-McCurry
- 21 2. Deposition of Gary McCurry
- 22 3. Deposition of Kevin Prentice
- 23 4. Deposition of Marla Bell, Wal-Mart PMK
- 24 5. Deposition of Jonathan Sorelle, M.D.

1 e. Objections to Depositions:

- 2 1. Plaintiff objects to Defendant's use of any deposition at trial for any
3 purpose other than impeachment unless Defendant provides specific line
4 and page numbers sufficient for Plaintiff to provide objections thereto.
5 2. Defendant objects to Plaintiff's use of any deposition at trial for any
6 purpose other than impeachment unless Plaintiff provides specific line and
7 page numbers sufficient for Plaintiff to provide objections thereto.

8 **VIII.**

9 The following witnesses may be called by the parties upon trial:

10 **PLAINTIFF'S WITNESSES:**

- 11 1. Melissa Strawder-McCurry
12 c/o Law Offices of Janet Markley
13 410 Nevada Way, #180
14 Boulder City, NV 89005
15 (702) 294-6529
16
17 2. Smoke Ranch Surgery Center
18 7180 Smoke Ranch Road
19 Las Vegas, NV 89128
20 (702) 551-8420
21
22 3. Dr. Gregory Lee Goetz
23 9811 Charleston Blvd., #2
24 PMB #838
25 Las Vegas, NV 89117
26 (702) 921-6829
27
28 4. Dr. David Ross
7140 Smoke Ranch Road, #150
Las Vegas, NV 89128
5. Synergy Laboratories
4161 S. Eastern Avenue #A-6
Las Vegas, NV 89119
6. Complete Care Medical Center
2325 West Charleston Blvd.
Las Vegas, NV 89102
(702) 870-2007

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- 7. Nevada Spine Clinic
7140 Smoke Ranch Road, #150
Las Vegas, NV 89128
- 8. Fremont Medical Center
4880 South Wynn Road
Las Vegas, NV 89103
- 9. Advantage Health Care
3663 East Sunset Road, #503
Las Vegas, NV 89120
(702) 434-2800
- 10. Nevada Anesthesia Professionals
400 East 10th Street
Waconia, MN 55387
(Billing)
- 11. Nevada Anesthesia Consultants
P.O. Box 81200
Las Vegas, NV 89180
(702) 873-4567
- 12. Dr. John Herr
4425 S. Pecos
Las Vegas, NV 89121
(702) 435-3535
- 13. Dr. Leo Germin
Clinical Neurology Specialists
1691 W. Horizon Ridge Pkwy.
Henderson, NV 89012
- 14. Bess Chang, PLLC
P.O. Box 777910
Henderson, NV 89077
(702) 921-6829
- 15. Well Care Pharmacy
3910 S. Maryland Pkwy #C
Las Vegas, NV 89119
(702) 431-3832
- 16. Las Vegas Radiology
P.O. Box 401180
Las Vegas, NV 89140
- 17. Dr. Jonathan Sorelle
8960 W. Tropicana Avenue
Las Vegas, NV 89147
(702) 921-6829

- 1 18. Center for Surgical Intervention
2 9811 West Charleston #2-389
3 Las Vegas, NV 89117
4 (702) 562-3039
- 5 19. Dr. Nick Zarkos
6 7326 West Cheyenne Avenue
7 Las Vegas, NV 89129
8 (702) 386-4701
- 9 20. Spring Valley Spec. Pharmacy
10 2725 S. Jones Blvd #101
11 Las Vegas, NV 89146
12 (702) 248-4119
- 13 21. Mt. View Pharmacy
14 7450 West Cheyenne #112
15 Las Vegas, NV 89129
16 (702) 360-5310
- 17 22. Orthopedic Motion, Inc.
18 2800 East Desert Inn Road, #250
19 Las Vegas, NV 89121
20 (702) 697-7070
- 21 23. Dr. Derek Duke
22 Spine & Brain Institute
23 861 Center Drive #200
24 Henderson, NV 89052
- 25 24. Kevin Prentice
26 c/o Phillips Spallas & Angstadt LLP
27 504 S. Ninth Street
28 Las Vegas, NV 89101
(702) 938-1511
- 29 25. Marla Bell
30 c/o Phillips Spallas & Angstadt LLP
31 504 S. Ninth Street
32 Las Vegas, NV 89101
33 (702) 938-1511
- 34 26. Plaintiff reserves the right to call any witness(es) identified by Defendant

DEFENDANT'S WITNESSES:

1. Kevin Prentice
c/o Phillips Spallas & Angstadt LLP
504 S. Ninth Street
Las Vegas, NV 89101
(702) 938-1511

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2. Marla Bell
c/o Phillips Spallas & Angstadt LLP
504 S. Ninth Street
Las Vegas, NV 89101
(701) 938-1511

3. Steven McIntire, M.D., Ph.D.
11030 White Rock Road, #110
Rancho Cordova, CA 95670
(800) 458-1261

4. Robert Gutierrez, M.D.
11030 White Rock Road, #110
Rancho Cordova, CA 95670
(800) 458-1261

5. Plaintiff's treating physicians:
 - a. Wendell Burris, M.D.
 - b. Dr. John Herr
 - c. Dr. Leo Germin
 - d. James Somers, M.S., PA-C
 - e. Conrad Yu, M.D.
 - f. Mylene Mangahas, M.D.
 - g. Matthew Brown, R.N.
 - h. Andrew Rehl, M.D.
 - i. Laura Kapus, M.D.
 - j. Dr. Shah
 - k. Dr. Collings
 - l. William Meyerhoff, M.D.
 - m. Dr. Vilt
 - n. Dr. Brelland
 - o. Emma Sempron, APN

6. Walmart reserves the right to call any witnesses identified in Plaintiff's Disclosures.

IX.

Three agreed upon trial dates:

- a. August 31, 2015
- b. October 19, 2015
- c. October 26, 2015

X.

It is estimated that the trial herein will take a total of 5-7 days.

APPROVED AS TO FORM AND CONTENT:

PHILLIPS SPALLAS & ANGSTADT LLP

LAW OFFICES OF JANET MARKLEY

/s/ Brenda Entzminger
 Brenda Entzminger, Esq.
 Nevada Bar No. 9800
 504 S. Ninth Street
 Las Vegas, NV 89101
Attorneys for Defendant Wal-Mart

/s/ Janet Markley
 Janet Markley, Esq.
 Nevada Bar No. 4009
 410 Nevada Way, #180
 Boulder City, NV 89005
Attorneys for Plaintiff Strawder-McCurry

XI.

a. This case is set down for jury trial on the stacked calendar on Tuesday, October 20, 2015, at 9:00 a.m. Calendar call set Tuesday, October 13, 2015, at 1:30 p.m.

b. An original and two (2) copies of each trial brief shall be submitted to the clerk by 10/13/2015.

c. Jury trials:


1. An original and two (2) copies of all instructions requested by either party shall be submitted to the clerk for filing by 10/13/2015.

2. An original and two (2) copies of all suggested questions of the parties to be asked of the jury panel by the court on voir dire shall be submitted to the clerk for filing by 10/13/2015.

The foregoing pretrial order has been approved by the parties to this action as evidenced by the signatures of their counsel hereon, and the order is hereby entered and will

1 govern the trial of this case. This order shall not be amended except by order of the court
2 pursuant to the agreement of the parties or to be prevent manifest injustice.

3 DATED: March 24, 2015.

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6 JENNIFER A. DORSEY
7 UNITED STATES DISTRICT JUDGE
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