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7 Attorneys for *Advantage Sales & Marketing LLC*

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9

**UNITED STATES DISTRICT COURT**

10

**DISTRICT OF NEVADA**

11

12 ROBBIN L. LOLOGO, an individual; and  
 13 VINCENT J. LOLOGO, an individual,

Plaintiffs,

14

v.

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16 WAL-MART STORES, INC., a Delaware  
 corporation d/b/a WAL-MART  
 SUPERCENTER STORE # 1834;  
 17 ADVANTAGE SALES & MARKETING  
 LLC; and DOES I-X, inclusive; and ROE  
 18 CORPORATIONS I through X, inclusive,

Defendants.

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20 WAL-MART STORES, INC., a Delaware  
 corporation,

Cross-Claimant,

21

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v.

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24 ADVANTAGE SALES & MARKETING  
 LLC, a foreign corporation; ROE  
 CORPORATIONS I through XX; and  
 25 DOES I through XX, inclusive,

Cross-Defendants.

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CASE NO. 2:13-cv-01493-GMN-PAL

**JOINT PRETRIAL STATEMENT AND  
ORDER DENYING THE SAME WITHOUT  
PREJUDICE**

1 Following pretrial proceedings in this cause,  
2 IT IS SO ORDERED:

3 I.

4 **JOINT STATEMENT OF THE CASE**

5 This case involves a slip and fall matter occurring on August 7, 2011 at Defendant, Wal-  
6 Mart Stores Inc.'s ("Walmart"), Store # 1834, in Grants Pass, Oregon. On this date, Plaintiff,  
7 Robbin L. Lologo ("Mrs. Lologo"), was shopping at the Walmart Store. Mrs. Lologo alleges she  
8 slipped and fell on a substance on the floor, which is believed to be applesauce, while walking  
9 around the main aisle way in front of register 9. Mrs. Lologo and her husband, Mr. Lologo, filed  
10 suit against Walmart alleging negligence and that Walmart owned, occupied, controlled, and  
11 managed Walmart Store # 1834. Around the time of the fall, Advantage Sales & Marketing,  
12 LLC ("ASM") was conducting a promotional event in Walmart store # 1834, including the  
13 demoing of applesauce pursuant to an In-Store Promotions Agreement entered into between  
14 Walmart and ASM.

15 II.

16 **STATEMENT OF JURISDICTION**

17 Jurisdiction exists pursuant to 28 U.S.C. §1332(a) and § 1441(a).

18 III.

19 **THE FOLLOWING FACTS ARE ADMITTED BY THE PARTIES AND REQUIRE NO**  
20 **PROOF**

21 1. Plaintiffs, ROBBIN L. LOLOGO and VINCENT J. LOLOGO, are and were at all  
22 times relevant herein, citizens of the State of Nevada.

23 2. Defendant, WAL-MART STORES, INC. is, and was at the time of these actions  
24 were commenced, a Delaware corporation with its principal place of business in the State of  
25 Arkansas, and thus is a citizen of the State of Delaware and a citizen of the State of  
26 Arkansas.

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1 3. Defendant, ADVANTAGE SALES & MARKETING, LLC is, and was at the time  
2 of these actions were commenced, a California limited liability company with its principal  
3 place of business in the State of California, and thus is a citizen of the State of California.

4 4. On August 7, 2011, Mrs. Lologo slipped and fell on a substance on the floor at  
5 Walmart store #1834 in Grants Pass, Oregon.

6 5. On July 12, 2013, Plaintiffs filed their Complaint against Walmart in Nevada's  
7 State Court alleging claims for Negligence, Negligent Hiring and Supervision, Loss of  
8 Consortium, and Negligence Per Se.

9 6. Walmart was served with process on July 31, 2013, and then subsequently filed  
10 a petition for removal to U.S. District Court on August 20, 2013.

11 7. On August 20, 2013, Walmart filed its Answer to Plaintiffs' complaint.

12 8. A proposed joint discovery plan and scheduling order was filed by the parties on  
13 September 23, 2013.

14 9. On September 27, 2013, the Court entered the scheduling order in this case.

15 10. On January 13, 2014, Plaintiffs and Walmart filed their first Stipulation to Extend  
16 the scheduling order deadlines. The Court entered the Order modifying the original  
17 scheduling order on January 15, 2014.

18 11. On March 19, 2014, Plaintiffs and Walmart filed their second stipulation to  
19 extend the scheduling order deadlines. The Court entered the Order modifying the scheduling  
20 order as outlined in the second stipulation on April, 1, 2014.

21 12. On May 29, 2014, Plaintiffs filed a Motion requesting leave to file their First  
22 Amended Complaint adding ASM as a defendant in this action. The Court granted Plaintiffs'  
23 request on July 15, 2014.

24 **IV.**

25 **THE FOLLOWING FACTS, THOUGH NOT ADMITTED, WILL NOT BE CONTESTED AT**  
26 **TRIAL BY EVIDENCE TO THE CONTRARY**

27 1. Mrs. Lologo slipped and fell in the main aisle way in front of register number nine  
28 at Walmart store # 1834.





1 and Sports Medicine, Dr. Timothy J. Trainor, D.O., Earle Chiropractic, Dr. Gregory L. Goetz,  
2 D.O., Center for Spine & Special Surgery, Community Family Doctors, Dr. David M. Ross,  
3 M.D., Smoke Ranch Surgery Center, LLC, Radar Medical Group, LLP, Dr. Russell Shah, Dr.  
4 Louis F. Mortillaro, M.D., Synergy Laboratories, Inc., Jaswinder S. Grover, M.D., Dr. Hans Jorg  
5 W. Rosler, M.D., Las Vegas Radiology, Las Vegas Pharmacy, CVS Pharmacy, Walgreens  
6 Pharmacy, Lumbar Corset, Costco Prescriptions, Centennial Medical Imaging, Dr. Enrico  
7 Fazzini, M.D., and Nevada Anesthesia Consultants.

8 7. Plaintiff Robbin L. Lologo's IRS Wage and Income Transcripts from 2003 – 2012.

9 8. Wal-Mart Store #1834 Incident Report

10 9. Photographs pertaining to the Incident

11 10. Wal-Mart Customer Statement

12 11. Witness Statement by Kira Sedivy

13 12. Customer Incident Photo Sheet

14 13. Video Request Form

15 14. Plaintiff Robbin L. Lologo's Social Security Earning Statements from 2007 –  
16 present.

17 15. Expert Reports and supplements of Dr. McIntire, Dr. Reid, Robert Taylor, Robin  
18 S. Caulfield, Vicki J. Schweitzer, Alex J. Balian, Dr. David O'Grady, Terrence Dinneen, Margo  
19 Ogus, Dawn Cook and Dr. Enrico Fazzini.

20 16. Amended Complaint

21 17. Defendants' Answers to Amended Complaint

22 18. Three (3) Color Photos showing Robbin Lologo's Ankle in a Cast and Hospital  
23 Identification Bracelet.

24 19. Photo of Walmart Store Manager "Paul" Business Card

25 20. Operative Report from Smoke Ranch Surgery Center/ Dr. Babuk Ghuman, M.D.,  
26 dated March 8, 2012.

27 21. Operative Report from Smoke Ranch Surgery Center, dated September 6, 2012.

28 22. Robbin Lologo Functional Capacity Checklist given by Terrence B. Dinneen,

1 M.S., C.R.C., C.R.E.

2 23. Next Step Medical Bills and Records for Lumbar Corset DX724.2.

3 24. Operative Report from Smoke Ranch Surgery Center, dated December 5, 2013.

4 25. Operative Report from Smoke Ranch Surgery Center, dated April 24, 2014.

5 26. Plaintiff Robbin lologo's shoes worn at the time of the incident

6 27. All parties reserve the right to introduce/utilize any documents identified and/or  
7 produced by any party, expert, and/or witness.

8 **IX.**

9 **THE FOLLOWING WITNESSES MAY BE CALLED BY THE PARTIES UPON TRIAL**

10 **PLAINTIFFS' WITNESSES:**

11 1. Casey Wiseman, Wal-Mart Manager and Person Most Knowledgeable regarding  
12 Policies & Procedures, Wal-Mart Stores, Inc., c/o Brenda H. Entzminger, Esq., Phillips, Spallas  
13 & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada 89101.

14 2. Robbin L. Lologo, Plaintiff, c/o Eric R. Blank, Esq., Law Offices of Eric Blank,  
15 P.C., 7860 W. Sahara Ave., Suite 110, Las Vegas, Nevada 89117.

16 3. Vincent J. Lologo, Plaintiff, c/o Eric R. Blank, Esq., Law Offices of Eric Blank,  
17 P.C., 7860 W. Sahara Ave., Suite 110, Las Vegas, Nevada 89117.

18 4. Person Most Knowledgeable for Wal-Mart Stores, Inc., c/o Brenda H.  
19 Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada  
20 89101.

21 5. Kira Sedivy, witness, 1434 Daisy Lane, Grants Pass, Oregon 95727.

22 6. Person(s) Most Knowledgeable regarding Policies & Procedures for Wal-Mart  
23 Stores, Inc., Store #1834, c/o Brenda H. Entzminger, Esq., Phillips, Spallas & Angstadt, LLC.,  
24 504 S. Ninth St., Las Vegas, Nevada 89101.

25 7. Paul Mott, Wal-Mart Employee, Wal-Mart Stores, Inc., c/o Brenda H. Entzminger,  
26 Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada 89101.

27 8. Joshua M. Lologo, Plaintiffs' son, 2313 Dalton Ridge Court, North Las Vegas,  
28 Nevada 89031.

1           9.       James Lologo, Plaintiffs' son, 2313 Dalton Ridge Court, North Las Vegas,  
2 Nevada 89031.

3           10.       Marci Hopkinson, Plaintiffs' friend, 6312 Tanzanite Avenue, Las Vegas, Nevada  
4 89130.

5           11.       Shane Jordan, Plaintiffs' acquaintance, (address currently unknown).

6           12.       Wal-Mart Male Security Guard (yet to be identified), Store #1834, Wal-Mart  
7 Stores, Inc., c/o Brenda H. Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth  
8 St., Las Vegas, Nevada 89101.

9           13.       Wal-Mart Cashier on Check Stand #9 (yet to be identified), Store #1834, Wal-  
10 Mart Stores, Inc., c/o Brenda H. Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S.  
11 Ninth St., Las Vegas, Nevada 89101.

12           14.       Female Wal-Mart Cashier who approached Plaintiff, Robbin L. Lologo after  
13 subject incedent (yet to be identified), Store #1834, Wal-Mart Stores, Inc., c/o Brenda H.  
14 Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada  
15 89101.

16           15.       Person Most Knowledgeable for Advantage Sales & Marketing, LLC, c/o Michael  
17 J. Nunez, Esq., Murchison & Cumming, LLP, 6900 Westcliff Dr., Suite 605, Las Vegas, Nevada  
18 89145.

19           16.       Dawn L. Cook, RN, LNCP-C, CLCP, CLNC, Nurse Life Care Planner, 6440 Sky  
20 Pointe Drive, #140-475, Las Vegas, Nevada 89131.

21           17.       Terrance B. Dinneen, M.S., C.R.C., C.R.E., DeVinney & Dinneen Career &  
22 Vocational Economic Services, Ltd., 445 Apple Street, Suite 205, Reno, Nevada 89502.

23           18.       Alex J. Balian, MBA, Balian & Associates, Inc., 6520 Platt Avenue, #807, West  
24 Hills, California 91307.

25           19.       Dr. Enrico Fazzini, D.O., Ph.D., F.A.C.N., 275 Rockaway Turnpike, Lawrence,  
26 New York 11559.

27           20.       Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
28 Records for American Medical Response, P.O. Box 3429, Modesto, California 95353.



1           21.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
2 Records for Three Rivers Community Hospital, 500 SW Ramsey Avenue, Grants Pass, Oregon  
3 97527.

4           22.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
5 Records for Babuk Ghuman, M.D., Nevada Spine Clinic, 7140 Smoke Ranch Road, Suite 150,  
6 Las Vegas, Nevada 89128.

7           23.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
8 Records for Advanced Orthopedics and Sports Medicine, Dr. Timothy J. Trainor, D.O., 8420 W.  
9 Warm Springs, Suite 100, Las Vegas, Nevada 89113.

10          24.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
11 Records for Nevada Anesthesia Consultants, LLP., P.O. Box 81200, Las Vegas, Nevada  
12 89180.

13          25.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
14 Records for Earle Chiropractic, 3585 S. Durango Dr., Suite 103, Las Vegas, Nevada 89147.

15          26.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
16 Records for Dr. Gregory L. Goetz, D.O., Center for Spine & Special Surgery, 7140 Smoke  
17 Ranch Road, Las Vegas, Nevada 89128.

18          27.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
19 Records for Community Family Doctors, 4500 W. Oakey Blvd., Las Vegas, Nevada 89102.

20          28.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
21 Records for Dr. David M. Ross, M.D., Nevada Spine Clinic, 7140 Smoke Ranch Road, Las  
22 Vegas, Nevada 89128.

23          29.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
24 Records for Smoke Ranch Surgery Center, LLC, 7180 Smoke Ranch Road, Las Vegas,  
25 Nevada 89128.

26          30.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
27 Records for Radar Medical Group, LLP, Dr. Russell Shah, 2628 W. Charleston Blvd., Las  
28 Vegas, Nevada 89102.

1           31.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
2 Records for Louis F. Mortillaro, Ph.D., 501 S. Rancho Drive, Suite F37, Las Vegas, Nevada  
3 89106

4           32.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
5 Records for Synergy Laboratories, Inc., 4161 S. Eastern Avenue, Suite A-6, Las Vegas,  
6 Nevada 89119.

7           33.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
8 Records for Dr. Jaswinder S. Grover, M.D., Nevada Spine Clinic, 7140 Smoke Ranch Road,  
9 Suite 150, Las Vegas, Nevada 89128.

10          34.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
11 Records for Spine & Special Surgery, 7140 Smoke Ranch Road, Suite 150, Las Vegas,  
12 Nevada 89128.

13          35.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
14 Records for Hans Jorg W. Rosler, M.D., Nevada Spine Clinic, 7140 Smoke Ranch Road, Suite  
15 150, Las Vegas, Nevada 89128.

16          36.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
17 Records for Las Vegas Radiology, Dr. Jeffrey Markham, M.D., Dr. Bhuvana Kittusamy, M.D.,  
18 7500 Smoke Ranch Road, Las Vegas, Nevada 89128.

19          37.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
20 Records for Las Vegas Pharmacy, 2600 W. Sahara Avenue, Suite 120, Las Vegas, Nevada  
21 89102.

22          38.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
23 Records for CVS Pharmacy, 5545 El Camino AL Norte, North Las Vegas, Nevada 89031.

24          39.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
25 Records for Walgreens Pharmacy, 5817 Clay Ridge Road, North Las Vegas, Nevada 89031

26          40.    Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
27 Records for Orthopedic Motion, Inc., 2800 E. Desert Inn Road, Suite 250, Las Vegas, Nevada  
28 89121.

1 41. Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
2 Records for Next Step Medical, Dept. 3432, Los Angeles, California 90084.

3 42. Treating Physician and/or Person Most Knowledgeable and/or Custodian of  
4 Records for Costco Pharmacy, 6555 N. Decatur Blvd., Las Vegas, Nevada 89131

5 Plaintiffs reserve the right to call any witness(es), expert(s), and/or treating physician(s)  
6 identified by Walmart, Walmart's records, ASM, ASM's records or any other party.

7 **WALMART'S WITNESSES:**

8 1. Casey Wiseman, Wal-Mart Employee, Wal-Mart Stores, Inc., c/o Brenda H.  
9 Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada  
10 89101.

11 2. Paul Mott, Wal-Mart Employee, Wal-Mart Stores, Inc., c/o Brenda H. Entzminger,  
12 Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada 89101.

13 3. Dr. Steven L. McIntire, M.D., Ph.D., Neurologist, 11030 White Rock Road, Suite  
14 110, Rancho Cordova, California 95670.

15 4. Dr. Michael H. Reid, Ph.D., M.D., Michael H. Reid Consulting Services, 3090  
16 Barberry Lane, Sacramento, California 95864.

17 5. Dr. David O'Grady, Ph.D, A.B.P.P., Clinical Neuropsychologist, 11030 White  
18 Road, Suite 110, Rancho Cordova, California 95670.

19 6. Robert H. Taylor, M.A., L.P.C., C.R.C., C.D.M.S., C.L.C.P., Vocational  
20 Diagnostics, Inc., 3030 N. Central Ave., Suite 406, Phoenix, Arizona 85012.

21 7. Vicki J. Schweitzer, R.N., B.S.N, C.H.C.Q.M., C.P.C., Exam Works, 1160  
22 Industrial Street, Redding, California 96002.

23 8. Margo R. Ogus, Ph.D., Economic Solutions, Inc., 1000 Elwell Court, Suite 214,  
24 Palo Alto, California 94303.

25 Defendant Walmart reserves the right to call any witness(es), expert(s), and/or treating  
26 physician(s) identified by Plaintiffs, Plaintiffs' records, ASM, ASM's records or any other party.

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1 **ASM'S WITNESSES:**

2 1. Person Most Knowledgeable for Advantage Sales & Marketing, LLC, c/o Michael  
3 J. Nunez, Esq., Murchison & Cumming, LLP, 6900 Westcliff Dr., Suite 605, Las Vegas, Nevada  
4 89145.

5 2. Person Most Knowledgeable for Wal-Mart Stores, Inc., c/o Brenda H.  
6 Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada  
7 89101.

8 3. Robbin L. Lologo, Plaintiff, c/o Eric R. Blank, Esq., Law Offices of Eric Blank,  
9 P.C., 7860 W. Sahara Ave., Suite 110, Las Vegas, Nevada 89117.

10 4. Vincent J. Lologo, Plaintiff, c/o Eric R. Blank, Esq., Law Offices of Eric Blank,  
11 P.C., 7860 W. Sahara Ave., Suite 110, Las Vegas, Nevada 89117.

12 5. Kira Sedivy, witness, 1434 Daisy Lane, Grants Pass, Oregon 95727.

13 6. Paul Mott, Wal-Mart Employee, Wal-Mart Stores, Inc., c/o Brenda H. Entzminger,  
14 Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada 89101.

15 7. Casey Wiseman, Wal-Mart Employee, Wal-Mart Stores, Inc., c/o Brenda H.  
16 Entzminger, Esq., Phillips, Spallas & Angstadt, LLC., 504 S. Ninth St., Las Vegas, Nevada  
17 89101.

18 8. Lillian Boughton, Advantage Sales & Marketing Employee, c/o Michael J. Nunez,  
19 Esq., Murchison & Cumming, LLP, 6900 Westcliff Dr., Suite 605, Las Vegas, Nevada 89145.

20 9. Robin S. Caulfield, R.A., LEED AP BD&C, Rimkus Consulting Group, Inc., 1160  
21 N. Town Center Drives, Suite 150, Las Vegas, Nevada 89144.

22 10. Dr. Steven L. McIntire, M.D., Ph.D., Neurologist, 11030 White Rock Road, Suite  
23 110, Rancho Cordova, California 95670.

24 11. Dr. Michael H. Reid, Ph.D., M.D., Michael H. Reid Consulting Services, 3090  
25 Barberry Lane, Sacramento, California 95864.

26 12. Robert H. Taylor, M.A., L.P.C., C.R.C., C.D.M.S., C.L.C.P., Vocational  
27 Diagnostics, Inc., 3030 N. Central Ave., Suite 406, Phoenix, Arizona 85012.

28 ///

1 13. Margo R. Ogus, Ph.D., Economic Solutions, Inc., 1000 Elwell Court, Suite 214,  
2 Palo Alto, California 94303.

3 14. Vicki J. Schweitzer, R.N., B.S.N, C.H.C.Q.M., C.P.C., Exam Works, 1160  
4 Industrial Street, Redding, California 96002.

5 15. Dr. David O'Grady, Ph.D, A.B.P.P., Clinical Neuropsychologist, 11030 White  
6 Road, Suite 110, Rancho Cordova, California 95670.

7 Defendant ASM reserves the right to call any witness(es), expert(s) and/or treating  
8 physician(s) identified by Plaintiffs, Plaintiffs' records, Walmart, Walmart's records or any other  
9 party.

10 **X.**

11 **COUNSEL HAVE MET AND HEREWITH SUBMIT A LIST OF TWO (2) AGREED UPON**  
12 **TRIAL DATES**

13 Counsel have met and herewith submit a list of three (3) agreed-upon trial dates:  
14 February 1-9, 2016; March 21-29, 2016 or April 4-12, 2016.

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**XI.**

**ESTIMATED TIME FOR TRIAL**

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

DATED: June 1, 2015

**LAW OFFICES OF ERIC R. BLANK, P.C.**

By     /s/ Eric R. Blank      
Eric R. Blank, Esq.  
Nevada Bar No. 6910  
7860 W. Sahara Ave., Suite 110  
Las Vegas, Nevada 89117  
Attorneys for Plaintiffs

DATED: June 1, 2015

**MURCHISON & CUMMING, LLP**

By     /s/ Ian M. McMenemy      
Michael J. Nuñez, Esq.  
Nevada Bar No. 10703  
Ian M. McMenemy, Esq.  
Nevada Bar No. 13190  
6900 Westcliff Drive, Suite 605  
Las Vegas, Nevada 89145  
Attorneys for Advantage Sales & Marketing, LLC

DATED: June 1, 2015

**PHILLIPS, SPALLAS & ANGSTADT, LLC**

By     /s/ Brenda H. Entzminger      
Brenda H. Entzminger, Esq.  
Nevada Bar No. 9800  
504 S. Ninth St.  
Las Vegas, Nevada 89101  
Attorneys for Wal-Mart Stores, Inc.

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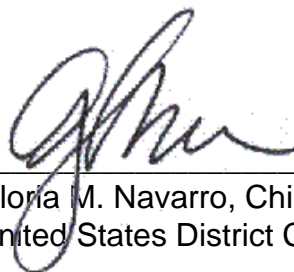
**XII.**

**ACTION BY THE COURT**

**IT IS HEREBY ORDERED** that the parties' proposed Joint Pretrial Order is **DENIED, without prejudice.**

**IT IS FURTHER ORDERED** that the parties are directed to comply with the Local Rules of Practice for the United States District Court, District of Nevada, specifically Local Rules 16-3 and 16-4.

**IT IS SO ORDERED** this 2nd day of June, 2015.



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Gloria M. Navarro, Chief Judge  
United States District Court