

1 Craig K. Perry (NV Bar No. 03786)  
cperry@craigperry.com  
2 CRAIG K. PERRY & ASSOCIATES  
8010 W. Sahara Avenue, Suite 260  
3 Las Vegas, Nevada 89117  
Tel: (702) 228-4777

Evan M. Meyers (pro hac vice)  
emeyers@mcgpc.com  
MCGUIRE LAW, P.C.  
55 W. Wacker Dr., 9th Fl.  
Chicago, Illinois 60601  
Tel: (312) 893-7002

4 Attorneys for Plaintiff

5 Lauri A. Mazzuchetti (pro hac vice)  
lmazzuchetti@kelleydrye.com  
6 KELLEY DRYE & WARREN LLP  
7 One Jefferson Road, 2<sup>nd</sup> Floor  
Parsippany, New Jersey 07054  
8 Tel: 973-503-5924

9 Craig R. Anderson, Esq.  
Nevada Bar No. 6882  
10 MARQUIS AURBACH COFFING  
10001 Park Run Drive  
11 Las Vegas, Nevada 89145  
Attorneys for Defendant  
12 *Kohl's Department Stores, Inc.*

13  
14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 KIRBY SPENCER, individually and on  
behalf of all others similarly situated,  
17  
18 Plaintiff,  
19  
20 v.  
21 KOHL'S DEPARTMENT STORES, INC.,  
22 Defendant.

Case No. 2:14-cv-01646-RFB-CWH

**STIPULATION AND [PROPOSED] ORDER  
TO EXTEND DEADLINE TO SUBMIT  
AMENDED DISCOVERY PLAN AND  
SCHEDULING ORDER**  
**(First Request)**

23  
24 Plaintiff Kirby Spencer ("Plaintiff"), by and through his attorneys Craig K. Perry &  
25 Associates and McGuire Law, P.C., and Defendant Kohl's Department Stores, Inc. ("Defendant"  
26 or "Kohl's"), by and through its attorneys Marquis Aurbach Coffing, P.C. and Kelley Drye &  
27 Warren LLP, pursuant to Local Rules 6-1, 6-2 and 7-1, and Fed. R. Civ. P. 16, hereby stipulate as  
28 follows:

- 1           1.       Plaintiff commenced this action on October 7, 2014. (ECF No. 1).
- 2           2.       Pursuant to the Court's September 30, 2015 Order, Plaintiff filed his First  
3 Amended Complaint on October 13, 2015 (ECF No. 50), and Kohl's filed its Answer to the First  
4 Amended Complaint on November 13, 2015 (ECF No. 53).
- 5           3.       On November 24, 2015, this Court issued an Amended Scheduling Order setting a  
6 discovery deadline of May 3, 2016, a deadline for Plaintiff to file a motion for class certification  
7 of May 27, 2016, and a deadline for Defendant to file dispositive motions 60 days after the Court's  
8 ruling on the motion for class certification. (ECF No. 55).
- 9           4.       On March 2, 2016, by this Court's Order on Stipulation, the discovery deadline was  
10 extended until July 8, 2016, and the Plaintiff's deadline to file a motion for class certification was  
11 extended until August 2, 2016 (ECF No. 59).
- 12          5.       On July 8, 2016, the parties filed a Joint Motion to Stay Proceedings after a Motion  
13 to Transfer was filed in a different case before the Joint Panel on Multidistrict Litigation (ECF No.  
14 62), which was granted by this Court on July 13, 2016, staying this action (ECF No. 63).
- 15          6.       Following the denial of transfer to the JPML, this Court ordered that the stay be  
16 lifted, and required the parties to submit a joint discovery plan and scheduling order (ECF No. 66).
- 17          7.       On November 1, 2016, this Court issued a Scheduling Order, extending the  
18 discovery deadline until April 28, 2017, and extending Plaintiff's deadline to file a motion for  
19 class certification until May 26, 2017 (ECF No. 70).
- 20          8.       On February 6, 2017, this Court granted Kohl's Motion to Stay pending the  
21 decision of the D.C. Circuit Court of Appeals in *ACA Int'l v. Fed. Commc 'ns Comm.*, No. 15-1211  
22 (D.C. Cir. 2015) (ECF No. 83).
- 23          9.       By Text Order entered on July 12, 2018, this Court lifted the stay following the  
24 D.C. Circuit's March 2018 decision, and ordered that the parties submit a proposed discovery plan  
25 and scheduling order, and that Kohl's file a dispositive motion relating to the D.C. Circuit's March  
26 2018 decision, within two weeks, by July 26, 2018 (ECF No. 84).
- 27          10.       The parties are presently discussing a potential resolution of this matter and require  
28 additional time to do so. As such, Plaintiff and Kohl's jointly request that this Court extend the

1 deadlines set forth in the Court's July 12, 2018 Order (ECF No. 84) for a period of twenty-one  
2 (21) days, until August 16, 2018. The requested extension will maximize efficiencies by  
3 providing the parties with an opportunity to discuss resolution prior to expending the time and  
4 resources to prepare the required filings, and prior to the Court entering deadlines that may  
5 ultimately not be necessary.

6 11. This Stipulation is made in good faith and not for the purpose of delay or for any  
7 other improper purpose. No trial date has yet been set in this case and no motions are currently  
8 pending.

9 WHEREFORE, Plaintiff Kirby Spencer and Defendant Kohl's Department Stores, Inc.  
10 hereby stipulate and respectfully request that the Court enter an Order: (i) extending the deadline  
11 for the parties to file a joint discovery plan and scheduling order, and for Kohl's to file a  
12 dispositive motion relating to the D.C. Circuit's March 2018 decision, by twenty-one (21) days,  
13 until August 16, 2018.

14 Dated: July 25, 2018

Respectfully submitted,

MCGUIRE LAW, P.C.

By: /s/ Evan M. Meyers

Evan M. Meyers (admitted pro hac vice)

Attorneys for Plaintiff Kirby Spencer

18 Dated: July 25, 2018

KELLEY DRYE & WARREN LLP

By: /s/Lauri A. Mazzuchetti

Lauri A. Mazzuchetti (admitted pro hac vice)  
(via email authorization)

Attorneys for Defendant

*Kohl's Department Stores, Inc.*

22 Pursuant to Stipulation, **IT IS SO ORDERED.**

24 Dated: July 30, 2018

By: 

Magistrate Judge Carl W. Hoffman  
United States Magistrate Judge