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 3 **PHILLIPS, SPALLAS & ANGSTADT LLC**  
 4 504 South Ninth Street  
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 5 (702) 938-1510

6 *Attorneys for Defendant*  
 7 *Sam’s West, Inc.*

8 UNITED STATES DISTRICT COURT  
 9 DISTRICT OF NEVADA

10 NGOC NGUYEN,  
 11 Plaintiff,  
 12 v.  
 13 SAM’S WEST, INC., a foreign corporation,  
 d/b/a SAM’S CLUB #4983; DOES I through V,  
 14 inclusive; and ROE CORPORATIONS VI  
 through X, inclusive,  
 15 Defendants.

Case No.: 2:15-cv-00649-JAD-PAL

**STIPULATION AND [PROPOSED]  
 ORDER FOR PLAINTIFF NGOC  
 NGUYEN TO UNDERGO AN FRCP  
 RULE 35 EXAMINATION BY DR.  
 STEVEN MCINTIRE**

17 Plaintiff NGOC NGUYEN (“Plaintiff”) and Defendant SAM’S WEST, INC. (“Sam’s West”) do hereby stipulate to Plaintiff undergoing an FRCP Rule 35 examination by Sam’s West’s expert.

18  
 19 The parties aver that good cause exists for Plaintiff to undergo an Independent Medical Examination (“IME”) pursuant to FRCP 35, as Plaintiff’s physical condition is in controversy in the  
 20 instant matter and she has made substantial claims for damages and future treatment. The parties have  
 21 agreed on the following parameters for the examination:  
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23  
 24 1. The examination will be conducted by Walmart’s expert, neurologist Steven L. McIntire, M.D., Ph.D., on the **18th day of September at 9:00a.m.** and shall last no longer than two  
 25 hours (120 minutes).  
 26

27 2. Plaintiff shall not be required to wait for an excessive period of time before being seen  
 28

1 by Dr. McIntire.

2 3. This examination shall include a patient history, diagnostic examination and  
3 manipulation of Plaintiff's body and may include a range of neurological and physical exams  
4 including a mental status exam, motor or strength testing, reflex testing, sensory testing, cerebellar  
5 testing, cranial nerve evaluation, gait testing and range of motion and palpation, in order for the  
6 examining physician to evaluate Plaintiff's injuries that are in controversy in the subject incident.  
7

8 4. This examination is conducted to evaluate Plaintiff regarding the nature, extent and  
9 cause of the injuries to Plaintiff; the appropriateness of any past medical treatment or any future  
10 medical treatment currently suggested; any future medical treatment needed; and the amount,  
11 necessity and reasonableness of the charges. The Examining Medical Practitioner may ask questions  
12 rationally related to Plaintiff's physical condition, medical history, family medical history, diagnosis,  
13 prognosis and/or causation. Questions relating to causation may include, but shall not be limited to,  
14 Plaintiff's understanding of the mechanics of her reported fall at Sam's West Store No. 4983 on  
15 November 2, 2012.  
16

17 5. No x-rays or lab tests will be performed.

18 6. This examination will be limited to an examination of the parts of the Plaintiff's body  
19 which she alleges were injured as a result of the subject incident.  
20

21 7. Dr. Steven L. McIntire will conduct the examination in a professional, courteous and  
22 deferential matter.

23 8. Plaintiff shall appear at the noticed site of the examination, on the noticed date, and at  
24 the noticed time.

25 9. Defendant shall provide to Plaintiff a copy of the report produced by Dr. McIntire  
26 within thirty (30) days of the examination.  
27  
28

1 DATED this 25th day of August, 2015.

DATED this 25th day of August, 2015

2 LAW OFFICES OF RICHARD S. JOHNSON

PHILLIPS, SPALLAS & ANGSTADT LLC

3 /s/ Richard S. Johnson

/s/ Breane P. Stryker

4 RICHARD S. JOHNSON, ESQ.

BREANE P. STRYKER

5 Nevada Bar No. 6361

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(702) 425-8233

(702) 938-1510

7 *Attorneys for Plaintiff*

*Attorneys for Defendant*

8 *Ngoc Nguyen*

*Sam's West, Inc.*

9  
10 IT IS SO ORDERED.

11 DATED this 26 day of August, 2015.

12   
13 UNITED STATES MAGISTRATE JUDGE

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 25<sup>th</sup> day of August, 2015, I served a true and correct copy of the  
3 foregoing, **STIPULATION AND [PROPOSED] ORDER FOR PLAINTIFF NGOC NGUYEN**  
4 **TO UNDERGO AN FRCP RULE 35 EXAMINATION BY DR. STEVEN MCINTIRE,** by  
5 facsimile and by U.S. Mail, in a sealed envelope, first-class postage fully prepaid, addressed to the  
6 following counsel of record, at the address listed below:  
7

8

ATTORNEY OF RECORD	TELEPHONE/FAX	PARTY
RICHARD S. JOHNSON, ESQ. Nevada Bar No. 6361 LAW OFFICES OF RICHARD S. JOHNSON 5542 South Fort Apache Rd., Ste. 120 Las Vegas, NV 89148	Phone 702-425-8233 Fax 702-818-3201	Plaintiff

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12 */s/ Billi J. Montijo*

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14 An Employee of PHILLIPS, SPALLAS & ANGSTADT LLC  
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