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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Kevin Zimmerman, an Individual
v.
Smith's Food & Drug Centers, Inc.,

Plaintiff,
Defendant.

Civil Action No: 2:17-cv-00973-GMN-GWF

**STIPULATED MOTION AND ORDER TO
STAY PROCEEDINGS**

Plaintiff Kevin Zimmerman and Defendant Smith's Food & Drug Centers, Inc., by and through their respective undersigned counsel, hereby move this Court for and Order staying all proceedings. A stay in this matter would be appropriate until the resolution of the pending Motion to Dismiss to be filed by the Nevada Attorney General in Zimmerman v. GJS Group, Inc., 2:17-cv-00304-GMN-GWF.

Factual Background

On August 8, 2017, the State of Nevada ex rel. Adam Paul Laxalt, the Nevada Attorney General moved to intervene in Zimmerman v. GJS Group for the limited purpose of seeking consolidation of similar actions, including this Case, filed by the Plaintiff in Zimmerman v. GJS Group and this Action. On October 11, 2017, this Court ordered, in part, that the State of

1 Nevada's Motion to Intervene is granted and the State of Nevada may move for consolidation
2 of this action and other actions filed by Plaintiff Zimmerman. The Parties file this Stipulated
3 Motion to Stay in anticipation of the motion to consolidate this action and the State of Nevada's
4 Motion to Dismiss all consolidated cases.

5 Legal Memorandum

6 "The power to stay proceedings is incidental to the power inherent in every court to
7 control the disposition of the causes on its own docket with economy of time and effort for
8 itself, for counsel, and for litigants." *LaSala v. Needham & Co., Inc.*, 399 F. Supp. 2d 421, 427
9 (S.D.N.Y. 2005) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163 (1936)).

10 In this Action, this Court has set a scheduling order which the parties have followed.
11 The upcoming dates require the parties to continue participation in the litigation including
12 disclosure of documents, identifying expert witnesses, deposing individuals, moving for
13 dispositive rulings, and other dates designed to lead this case to a prompt trial date. It would not
14 be economical for the parties to this action to pay attorneys' fees, expert costs, and invest time
15 in pursuit of, or defense against, claims given the State of Nevada's pending motion to
16 consolidate and planned motion to dismiss. It would not be economical for this court to
17 consider and rule upon requests from the parties in light of the State of Nevada's pending
18 motions. All discovery, motions practice, investigations, legal work, and associated efforts
19 would be a waste of resources and a drain on this court's limited resources if the consolidation
requested is granted.

20 If the consolidation requested by the State of Nevada is denied, neither party will be
21 prejudiced, but will still be in a position to pursue or defend against Plaintiff's discrimination
22 claims which occurred on the date alleged in the complaint.

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1 The Parties therefore respectfully move for a stipulated order staying all proceedings in
2 this case until after the court in Zimmerman v. GJS Group rules on the State of Nevada's
3 Motion to Consolidate.

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5 **RESPECTFULLY** submitted on this 20th day of November, 2017.

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7 /s/ Whitney C. Wilcher
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15 /s/ Gregory Francis Hurley
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16 **IT IS SO ORDERED.**

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UNITED STATES MAGISTRATE JUDGE

DATED: November 21, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2017, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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by: /s/ Sydney Rogers