

1 Whitney C. Wilcher, Esq.  
 2 THE WILCHER FIRM  
 3 Nevada State Bar No. 7212  
 4 8465 West Sahara Avenue  
 5 Suite 111-236  
 6 Las Vegas, NV 89117  
 7 Email: wcw@nevadaada.com  
 8 Attorney for Plaintiff

9 **UNITED STATES DISTRICT COURT**  
 10 **DISTRICT OF NEVADA**

11 Kevin Zimmerman, an Individual  
 12 Plaintiff,  
 13 v.  
 14 Smith's Food & Drug Centers, Inc.,  
 15 Defendant.

**Civil Action No: 2:17-cv-01194-GMN-GWF**

**STIPULATED MOTION AND ORDER TO  
 STAY PROCEEDINGS**

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

23 Factual Background

24 On August 8, 2017, the State of Nevada ex rel. Adam Paul Laxalt, the Nevada Attorney  
 25 General moved to intervene in Zimmerman v. GJS Group for the limited purpose of seeking  
 26 consolidation of similar actions, including this Case, filed by the Plaintiff in Zimmerman v. GJS  
 27 Group and this Action. On October 11, 2017, this Court ordered, in part, that the State of  
 28

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.  
23  
24  
25  
26  
27  
28

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.  
4

5 **RESPECTFULLY** submitted on this 20th day of November, 2017.  
6

7 /s/ Whitney C. Wilcher  
Whitney C. Wilcher, Esq.  
THE WILCHER FIRM  
8 Nevada State Bar No. 7212  
8465 West Sahara Avenue  
9 Suite 111-236  
Las Vegas, NV 89117  
10 Email: [wcw@nevadaada.com](mailto:wcw@nevadaada.com)  
Attorney for Plaintiff  
11

/s/ Gregory Francis Hurley  
Gregory Francis Hurley, Esq.  
Sheppard Mullin Richter & Hampton  
650 Town Center Dr., 4<sup>th</sup> Fl.  
Costa Mesa, CA 92626  
ghurley@sheppardmullin.com  
Attorney for Defendant  
Pro Hac Vice  
12  
13

14 **IT IS SO ORDERED.**  
15

  
16 UNITED STATES MAGISTRATE JUDGE

17 DATED: November 21, 2017  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

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

6 Gregory Francis Hurley  
7 Sheppard Mullin Richter & Hampton, LLP  
8 650 Town Center Dr., 4<sup>th</sup> Flr.  
9 Costa Mesa, CA 92626  
ghurley@sheppardmullin.com  
Attorney for Defendant

10  
11  
12  
13  
14 by: /s/ Sydney Rogers  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28