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SAO
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FABIOLA FRAGOSO, individually;

Case No.: 2:22-cv-01507-CDS-EJY

Plaintiff,

vs.

WAL-MART, INC., a foreign corporation; DOE
EMPLOYEES; DOE MANAGERS; DOES I-XX,
inclusive; and ROE CORPORATIONS I-XX,
inclusive,

**STIPULATION AND ORDER TO
EXTEND DISCOVERY PLAN AND
SCHEDULING ORDER
(FOURTH REQUEST)**

Defendants.

Plaintiff FABIOLA FRAGOSO, by and through her counsel of record, BRADLEY S. MAINOR, ESQ., JOSEPH J. WIRTH, ESQ., and ASH MARIE BLACKBURN, ESQ., of MAINOR WIRTH, LLP, and Defendant WAL-MART, INC., by and through its counsel of record, KURT R. BONDS, ESQ, and TANYA M. FRASER, ESQ. of HALL & EVANS, LLC, hereby submit the instant Stipulation and Order to Extend the Discovery Plan and Scheduling Order (Fourth Request) pursuant to LR IA 6-1 and LR 26-3 as follows:

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I.

PROCEDURAL HISTORY

This lawsuit involves allegations that Plaintiff FABIOLA FRAGOSO (hereinafter “FRAGOSO”) suffered serious injuries related to a slip and fall on Defendant’s premises. On June 30, 2022, Plaintiff filed her Complaint against Defendant WAL-MART, INC. with the Eighth Judicial District Court for Clark County, Nevada. On September 31, 2022, Defendant WAL-MART, INC. filed its Answer denying Plaintiffs’ allegations and denying all liability for the injuries. On September 8, 2022, Plaintiff filed her Request for Exemption from Arbitration in which she outlined her claimed injuries and alleged damages. On September 12, 2022, Defendant WAL-MART, INC. filed its Notice of Removal and removed the matter to this Court based on diversity jurisdiction. On September 15, 2022, Defendant WAL-MART, INC. filed its Statement Regarding Removal. The parties participated in the Fed. R. Civ. P. 26(f) conference on October 12, 2022, and filed their proposed Joint Discovery Plan and Scheduling Order which was entered by this Court on October 27, 2022.

II.

DISCOVERY COMPLETED

To date, Plaintiff has completed the following discovery:

- Plaintiff’s FRCP 26 Initial Disclosure, served October 26, 2022;
- Plaintiff’s First Set of Interrogatories to Defendant WAL-MART, INC., served December 12, 2022;
- Plaintiff’s First Set of Requests for Production to Defendant WAL-MART, INC., served December 12, 2022;
- Plaintiff’s First Supplemental FRCP 26 Disclosure, served March 3, 2023;
- Plaintiff’s Second Supplemental FRCP 26 Disclosure, served March 13, 2023;
- Deposition of Dana James on March 21, 2023;
- Plaintiff’s Third Supplemental FRCP 26 Disclosure, served April 25, 2023;
- Deposition of David Rosas on April 27, 2023;
- Plaintiff’s Second Set of Requests for Production to Defendant WAL-MART, INC.,

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served June 5, 2023;

- Plaintiff's Fourth Supplemental FRCP 26 Disclosure, served June 28, 2023;
- Plaintiff's Fifth Supplemental FRCP 26 Disclosure, served September 26, 2023;
- Plaintiff's Sixth Supplemental FRCP 26 Disclosure, served October 26, 2023.

To date, Defendant WAL-MART, INC. has completed the following discovery:

- Defendant's FRCP 26 Initial Disclosure, served October 28, 2022;
- Deposition of Fabiola Fragoso on April 26, 2023;
- Defendant's Answers to Plaintiff's First Set of Interrogatories, served February 17, 2023;
- Defendant's Responses to Plaintiff's First Set of Requests for Production, served on February 17, 2023;
- Defendant's First Supplemental Responses to Plaintiff's First Set of Requests for Production, served on March 3, 2023;
- Defendant's First Supplemental FRCP 26 Disclosure, served March 3, 2023;
- Defendant's Second Supplemental FRCP 26 Disclosure, served April 12, 2023;
- Deposition of James Burris on June 28, 2023;
- Defendant's Responses to Plaintiff's Second Set of Requests for Production, served July 14, 2023;
- Defendant's Third Supplemental FRCP 26 Disclosure, served July 14, 2023.

III.

DISCOVERY REMAINING TO BE COMPLETED

- Deposition of Defendant WAL-MART, INC.'s corporate representative;
- Depositions of Plaintiff's treating providers;
- Initial expert designations;
- Rebuttal expert designations;
- Depositions of Initial and Rebuttal Experts;
- Inspection of the subject floor and surrounding area;
- Inspection of drainage systems;
- Additional written discovery.

1 This is a complex premise liability claim. The parties have diligently worked to move the
2 case forward, including the exchange of initial disclosures, fact witness depositions, party
3 depositions and the securing of independent copies of Plaintiff's medical records. Now, Plaintiff's
4 expert(s) requests inspection of the garden department within the subject Wal-Mart location. The
5 parties have been communicating diligently to schedule the site inspection, but it has proven to be
6 more difficult than anticipated. A motion for protective order was filed by Defendant and a Motion
7 to Compel was filed by Plaintiff. Both Motions were heard before Magistrate Judge Youchah on
8 December 4, 2023.

9 Now that the issues regarding the proper scope of the required inspection have been resolved,
10 the parties can work together to schedule the same. However, due to limited expert availability, the
11 earliest said inspection could possibly be scheduled is sometime in late January of 2024. The current
12 initial expert deadline is January 29, 2024. This does not leave adequate time for the inspection to
13 go forward and the experts to draft and finalize their corresponding reports.

14 Plaintiff also anticipates additional discovery being necessary after conducting the inspection
15 and taking the deposition of Defendant's corporate representative pursuant to NRCp 30(b)(6) as well
16 as other fact witnesses. This case has essentially been on hold while the parties waited for the hearing
17 on their respective Motions. Now that they have been heard and rulings have been made, the parties
18 are prepared to work diligently in moving this case forward. However, more time is still required for
19 the parties to complete the discovery. With the current discovery deadlines rapidly approaching and
20 a fair amount of discovery yet to be completed, the parties have agreed to a sixty (60) day discovery
21 extension to complete the remaining discovery as well as any necessary motion practice.

22 IV.

23 **PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE**

	Current Date	Proposed Date
26 Discovery Cut-Off:	03/28/2024	06/26/2024
27 Motions to Amend Pleadings /	01/03/2024	04/02/2024
28 Add Parties:		

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Initial Expert Disclosures:	01/29/2024	04/02/2024
Rebuttal Expert Disclosures:	02/28/2024	05/28/2024
Dispositive Motions:	04/29/2024	07/26/2024
Joint Pre-Trial Order:	06/04/2024	09/02/2024

This is the fourth request for an extension of time in this matter and no trial date will be impacted by the extension as no such trial date has been set. The parties submit that the reasons set forth above constitute good cause for the requested extension.

DATED this 7th day of December 2023.

Dated this 7th day of December 2023.

MAINOR WIRTH, LLP

HALL & EVANS, LLC

/s/ Ash Marie Blackburn

/s/ Kurt R. Bonds

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Attorneys for Defendant

Fragoso v. Walmart, Inc.
Case No.: 2:22-cv-01507-CDS-EJY
SAO to Extend Discovery Plan and
Scheduling Order (Fourth Request)

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ORDER

IT IS SO ORDERED.

DATED this 7th day of December, 2023.


UNITED STATES MAGISTRATE JUDGE

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