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

16 LARON ONEAL, individually,
17
18 Plaintiff,

19 vs.

20 ALBERTSON'S, LLC d/b/a
ALBERTSON'S; SAFEWAY INC. d/b/a
21 ALBERTSON'S; ALBERTSON'S STORES
SUB LLC; AB ACQUISITION LLC; DOES
22 1 through 100 and ROE CORPORATIONS 1
through 100, inclusive,
23

24 Defendants.

Case No.: 2:23-cv-00643-APG-MDC

**STIPULATION AND ORDER TO
REOPEN AND RESCHEDULE
DISCOVERY PLAN AND
SCHEDULING ORDER
(FIFTH EXTENSION)**

25
26 Plaintiff Laron O'Neal and the Albertson's Defendants, by and through their counsel of
27 record, do hereby stipulate and agree to an extension of the discovery deadlines, dispositive
28 motion deadline, and the pre-trial order deadline in this matter for a period of ninety (90) days,

1 for the reasons set forth herein. The parties further set forth that pursuant to LR 1A 6-1 and
2 LR 26-3, this requested extension is sought based on good cause, and after a recent hearing
3 before this court on August 6, 2024, when the parties and the court did meet to address
4 outstanding issues.

5 This Stipulation is a product of the parties' multiple meet and confer sessions,
6 agreements and concessions made by each side, and is submitted in good faith.

7 **A. Discovery Completed to Date – LR 26-3(a)**

- 8 1. The parties conducted a conference pursuant to FRCP 26(f) on May 22, 2023
- 9 a. Plaintiff served the following disclosures pursuant to FRCP 26:
- 10 i. Initial disclosure on May 31, 2023
- 11 ii. First Supplement on November 20, 2023
- 12 iii. Second Supplement on December 6, 2023
- 13 iv. Third Supplement on July 11, 2024
- 14 b. Defendants served the following disclosures pursuant to FRCP 26
- 15 i. Initial disclosure on June 29, 2023
- 16 ii. First Supplement on September 14, 2023
- 17 iii. Second Supplement on November 20, 2023
- 18 iv. Third Supplement on December 19, 2023
- 19 v. Fourth Supplement on January 11, 2024
- 20 vi. Fifth Supplement on May 13, 2024
- 21 vii. Sixth Supplement on May 15, 2024
- 22 viii. Seventh Supplement on June 10, 2024
- 23 2. The parties served and responded to interrogatories, requests for production, and
- 24 requests for admissions
- 25 a. Plaintiff served the Defendants with interrogatories on June 30, 2023, to which
- 26 the Defendants responded on August 21, 2023
- 27 b. Plaintiff served Defendants with the First Request for Production on June 30,
- 28 2023, to which the Defendants responded on September 14, 2023;

- c. Plaintiff served Defendants with the Second Request for Production on January 19, 2024, to which the Defendants responded on March 5, 2024
- d. Plaintiff served Defendants with the Third Request for Production on April 11, 2024, to which the Defendants responded on May 13, 2024
- e. Plaintiff served Defendants with the Fourth Request for Production on April 15, 2024, to which the Defendants responded on May 15, 2024
- f. Plaintiff served Defendants with the Fifth Request for Production on April 22, 2024, to which the Defendants responded on May 15, 2024
- g. Plaintiff served Defendants with the Sixth Request for Production on May 8, 2024, to which the Defendants responded on June 10, 2024
- h. Plaintiff served Defendants with the Seventh Request for Production on May 13, 2024, to which the Defendants responded on June 13, 2024
- i. Plaintiff served Defendants with the Eighth Request for Production on May 16, 2024, to which the Defendants responded on June 13, 2024
- j. Plaintiff served Defendants with the First Request for Admissions on April 15, 2024, to which the Defendants responded on May 13, 2024
- k. Defendant supplemented discovery responses with records from employees Rutledge, Dufala, Mergerson, Everett, and Sinnott, in October and November 2024;
- l. Defendant served Plaintiff with interrogatories on July 17, 2023, to which the Defendants responded on August 30, 2023
- m. Defendant served Plaintiff with interrogatories on July 17, 2023, to which the Defendants responded on August 30, 2023

3. The following depositions have taken place

- a. Deposition of Plaintiff Laron Oneal, taken on November 21, 2023;
- b. Deposition of Chris Rutledge, taken on October 15, 2024;
- c. Deposition of Laurie Dufala, taken on October 16, 2024; and,

1 d. Deposition of Shandana Mergerson, scheduled for November 6, 2024, pursuant
2 to subpoena, witness failed to show and Motion for Order to Show Cause
3 currently pending before this court.

4 **B. Discovery Remaining to be Completed – LR 26-3(b)**

- 5 1. Deposition of Defendant’s former employee Shandana Mergerson
- 6 2. Deposition of Defendant's witness(es) produced pursuant to FRCP 30(b)(6), subsequent
7 to completing depositions of employees and developing a list of topics
- 8 3. Deposition of Defendant's employee Devin Everett (Possible, depending on other
9 testimony obtained)
- 10 4. Deposition of Defendant's former employee Robert Sinnott (Possible, depending on
11 other testimony obtained)
- 12 5. Deposition of Defendant's former employee Andru Floyd (Possible, depending on other
13 testimony obtained)
- 14 6. Deposition of Plaintiff’s Expert Witness Raimundo Leon, MD
- 15 7. Plaintiff also reserves the right to conduct depositions of experts, particularly if they
16 supplement reports, which issue the parties agreed to discuss further based on the as yet
17 uncompleted
- 18 8. Defendants reserve the right to conduct depositions of Plaintiff’s treating providers, if
19 necessary

20 **C. Reasons for Extension – LR 26-3(c)**

21 The parties continue to work together towards completing discovery in this case, and
22 have numerous communications, both via email and on phone calls, as well as in person
23 during depositions, to discuss discovery planned, needed, contemplated, and reasonably
24 necessary and likely. Plaintiff conducted the depositions of two of Defendants’ employees,
25 Chris Rutledge and Laurie Dufala, after which Plaintiff’s counsel determined that he no longer
26 likely needed certain other planned depositions; however, it also called for the need for the
27 deposition of another former employee of Defendants’ Shandana Mergerson.

1 The parties scheduled that deposition for November 6, 2024, and Plaintiff served Ms.
2 Mergerson with a subpoena to appear, but she failed to appear or call to reschedule her
3 deposition. Plaintiff considers this to be an important deposition, because Ms. Mergerson
4 dealt directly with Plaintiff after his incident and when he reported it to the store, and as the
5 only store employee who directly dealt with Plaintiff, her testimony remains important.
6 Plaintiff filed a motion seeking an Order to Show Cause against Mr. Mergerson, which motion
7 remains pending before this court.

8 Plaintiff further requires this deposition before his counsel can finalize topics for
9 depositions of Defendants' corporate representatives pursuant to FRCP 30(b)(6). Due to time
10 of the season issues, Defendants requested that Plaintiff conduct the depositions of the
11 corporate designees after February 15, 2025, which timing would be perfect, given the
12 additional time needed to secure the deposition of Ms. Mergerson.

13 Plaintiff also recently underwent spinal surgery on December 10, 2024. Defendants'
14 counsel requested to conduct the deposition of one of Plaintiff's medical experts, and indicated
15 the potential need to depose Plaintiff's treating physicians, as well. As this surgery only
16 recently took place, Plaintiff's counsel is collecting those medical records for service.
17 Therefore, the parties need additional time to address this issue.

18 Finally, there remain open issues as to written discovery requests and supplements. The
19 parties are currently working towards handling those issues, and anticipate doing so without
20 further need for assistance of the court.

21 **New Discovery Deadlines**

| 22 | Current Deadline | New Deadline |
|--------------------------------|-------------------------|-----------------------|
| 23 Amend Pleadings/Add Parties | CLOSED | CLOSED |
| 24 Initial Expert Disclosure | CLOSED | CLOSED |
| 25 Rebuttal Expert Disclosure | CLOSED | CLOSED |
| 26 Discovery Deadline | December 30, 2024 | March 31, 2025 |
| 27 Dispositive Motion Deadline | January 29, 2025 | April 30, 2025 |
| 28 Pre-Trial Order Deadline | February 28, 2025 | June 13, 2025 |

1 Plaintiff's counsel requests an additional two weeks for the Pre-Trial Order, as he will
2 be out of the country for personal reasons for the two weeks ending May 30, 2025, which
3 would be the thirty day deadline. Instead of returning for an additional extension and to
4 handle everything at once, knowing he will be out of the country, he requests to resolve this
5 issue at present.

6 The parties further stipulate that if either or both parties file dispositive motions, the
7 joint pre-trial order shall be suspended until 30 days after the court rules on the dispositive
8 motions. The parties make this request for extension for compelling reasons and in good faith,
9 and after meeting and conferring in detail on the length of the extension, the reasons for the
10 extension, the additional discovery needed, and for other good cause existing.

11 WHEREFORE, the parties respectfully request that this Court extend the discovery
12 period from the current deadlines as outlined above.

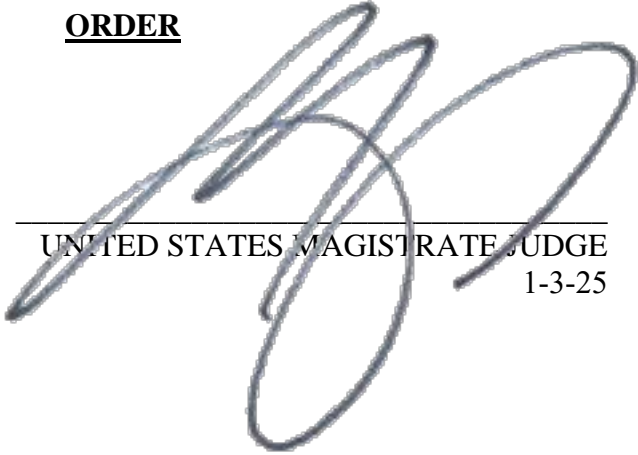
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21 **ORDER**

22 **IT IS SO ORDERED.**

23
24 
25 _____
26 UNITED STATES MAGISTRATE JUDGE
27 1-3-25
28