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The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STORMANS, INCORPORATED doing
business as RALPH'S THRIFTWAY, et al.,

Plaintiffs,

v.

MARY SELECKY, Secretary of the
Washington State Department of Health, et
al.,

Defendants.

Case No. C07-5374-RBL

STIPULATION AND ORDER GRANTING
DEFENDANTS' AND DEFENDANT-
INTERVENORS' JOINT MOTION FOR
STAY OF PROCEEDINGS PENDING
DECISION BY THE NINTH CIRCUIT
COURT OF APPEALS

This matter having come before the Court on Defendants' and Defendant-Intervenors' joint Motion for Stay of Proceedings Pending Decision by the Ninth Circuit Court of Appeals, and the Court having reviewed the papers filed by the parties, the record in this action, and any other pleadings and argument of the parties relevant to the issues raised therein, and the Court having asked the parties as a condition to entering the stay to reach an agreement on certain limitations in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary Injunction and vacates the preliminary injunction, and the parties having reached such an agreement as set forth below:

[PROPOSED] STIPULATION AND ORDER
GRANTING DEFENDANTS' AND
DEFENDANT-INTERVENORS' JOINT
MOTION FOR STAY OF PROCEEDINGS
PENDING DECISION BY THE NINTH
CIRCUIT COURT OF APPEALS - 5

*110767 (13438.00)

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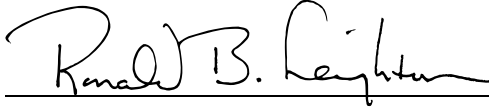
1 IT IS HEREBY ORDERED THAT Defendants' and Defendant-Intervenors' Motion
2 for Stay is GRANTED. All currently pending trial and pre-trial dates and Case Schedule
3 deadlines, including the deadline for submission of dispositive motions, are vacated, but only
4 to the extent not already passed and except as to pending discovery issues and any discovery
5 that the Court may order. Within ten days after the Ninth Circuit issues its mandate in this
6 case, the Court will hold a status conference to re-set the trial and other pre-trial dates,
7 including the deadline for submission of dispositive motions.

8 IT IS HEREBY FURTHER ORDERED THAT in the event the Ninth Circuit Court of
9 Appeals reverses the Order Granting Preliminary Injunction and vacates the preliminary
10 injunction, the Defendants stipulate that the State Defendants will not take investigative or
11 enforcement action against Plaintiffs or their employers under WAC 246-863-095(4)(d) or
12 WAC 246-869-010(4)(d) until a trial on the merits has concluded.

13 IT IS HEREBY FURTHER ORDERED THAT in the event the Ninth Circuit Court of
14 Appeals reverses the Order Granting Preliminary Injunction and vacates the preliminary
15 injunction, the Defendants stipulate and agree that the State Defendants will notify the Court
16 if a complaint is received, and that the State Defendants intend to investigate, alleging a
17 failure of a non-party licensed pharmacy to timely deliver Plan B in violation of WAC 246-
18 869-010, or that any non-party licensed pharmacy or pharmacist has not complied with WAC
19 246-869-010 (4)(d) or 246-863-095 (4)(d), and the Court will conduct a telephone conference
20 to decide what steps, if any, may be taken by the State Defendants with respect to
21 investigating the complaint, and this will occur with each and every such complaint regarding
22

1 non-parties until otherwise ordered by the Court or until after a trial on the merits has
2 concluded.

3 Dated this 6th day of March, 2009.

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6 RONALD B. LEIGHTON
7 UNITED STATES DISTRICT JUDGE

8 AGREED TO BY:

9
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33 [PROPOSED] STIPULATION AND ORDER
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23 [PROPOSED] STIPULATION AND ORDER
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