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13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

16 CENTER FOR INDEPENDENT LIVING,  
17 INC., JANET BROWN, and LISA KILGORE  
18 on behalf of themselves and all others  
19 similarly situated,

19 Plaintiffs,

20 v.

21 WAL-MART STORES, INC.,

22 Defendant.

**Case No. C 12-3885 CRB**

**JOINT STIPULATION AND MOTION  
FOR ADMINISTRATIVE RELIEF FROM  
GENERAL ORDER NO. 56 TO PERMIT  
PARTIES TO PURSUE ALTERNATIVE  
SETTLEMENT PROCEDURES;  
[REDACTED] ORDER**

Judge: Hon. Charles R. Breyer

1 **Case Background**

2 Plaintiffs Center for Independent Living, Inc., Janet Brown and Lisa Kilgore (collectively  
3 “Plaintiffs”) filed a Class Action Complaint to initiate this action on July 25, 2012 seeking  
4 declaratory relief, injunctive relief, damages, and attorneys’ fees and costs on behalf of a  
5 proposed class of individuals with mobility disabilities. Plaintiffs’ Complaint alleges generally  
6 that Defendant Wal-Mart Stores, Inc.’s (“Wal-Mart”) use and placement of point of sale terminals  
7 at Wal-Mart stores in California violates the Americans with Disabilities Act (“ADA”),  
8 California’s Unruh Civil Rights Act (“Unruh Act”) and portions of the California Disabled  
9 Persons Act (“CDPA”), specifically California Civil Code §§54-54.3. *Docket No. 1.* Wal-Mart  
10 denies the allegations in Plaintiffs’ Complaint, denies that Plaintiffs are entitled to any remedy,  
11 relief, or damages, and further denies that Plaintiffs have been damaged in any amount or at all.

12 Upon the filing of the Complaint, Plaintiffs received the Court’s “Scheduling Order For  
13 Cases Asserting Denial of Right of Access Under Americans with Disabilities Act Title II & III  
14 (42 U.S.C. §§ 12131-89).” *Docket No.2.* The Scheduling Order, which applies the timelines  
15 suggested in the Court’s General Order No. 56, established the following schedule:

Date	Event	Rule(s)
7/25/2012	Complaint filed	
9/24/2012	Last day for plaintiff to complete service on defendants or file motion for administrative relief from deadline	General Order 56; Civil Local Rule 7-11
7 days before Joint Site Inspection	Last day for parties to complete initial disclosures, including defendant’s disclosure re construction or alteration history of subject premises	FRCivP 26(a); General Order 56 ¶2;
11/7/2012	Last day for parties and counsel to hold joint inspection of premises, with or without meet-and-confer regarding settlement	General Order 56 ¶3,4;
28 business days after Joint Site Inspection	Last day for parties to meet and confer in person to discuss settlement	General Order 56 ¶4;
42 days after Joint Site Inspection	Last day for plaintiff to file “Notice of Need for Mediation”	General Order 56 ¶7;
7 calendar days after mediation	Last day for plaintiff to file Motion for Administrative Relief Requesting Case Management Conference	General Order 56 ¶8; Civil Local Rule 7-11

**The Parties' Stipulated Request**

1           The parties have met and conferred regarding the applicability of the Scheduling Order  
2 and General Order No. 56 to the case and have discussed exploring whether this case can be  
3 settled on a class wide basis without the need for further litigation. General Order No. 56 – with  
4 its early facility inspection requirements – does not appear to be designed for class actions  
5 involving multiple facilities such as the instant case. In order to facilitate further settlement  
6 discussions among the parties, to accommodate the very busy upcoming holiday season, and in  
7 the interest of preserving resources, the parties have discussed and now propose an alternative  
8 stipulated schedule to the Court. The alternative stipulated schedule would permit the parties to  
9 explore the possibility of settlement using procedures that differ from those set forth in the  
10 Scheduling Order and General Order No. 56, yet that are similarly focused on determining  
11 whether this class action, which alleges access violations, can be resolved prior to appearing  
12 before the Court for an initial case management conference. The parties further submit that this  
13 case is styled as a class action; that, if a class were to be certified, the Court and the parties could  
14 become embroiled in expensive and time-consuming litigation relating to placement and  
15 accessibility of point of sale devices in potentially hundreds of stores throughout the state; and  
16 that it is more efficient and more likely to promote the potential settlement of this action if the  
17 parties forgo the joint site inspection required under General Order No. 56 of alleged barriers at a  
18 specific Wal-Mart store, and instead proceed to facilitated mediation.

20           The parties' proposal ensures that the underlying goals of General Order No. 56 are  
21 accomplished by proposing: the exchange of initial disclosures required under Federal Rule of  
22 Civil Procedure 26(a)(1); the exchange of information described in General Order No. 56, ¶¶ 2-6;  
23 and that a mediator preside over settlement negotiations. The parties' proposal extends by a few  
24 months the schedule established by the Scheduling Order and General Order No. 56 to allow  
25 sufficient time for attempting to resolve the case prior to the parties' appearance at an initial case  
26 management conference. Due to the nature of this case, the parties submit that this additional  
27 time is warranted and will facilitate settlement negotiations.

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1 IT IS HEREBY STIPULATED between and among the parties by and through their  
2 respective counsel of record, subject to the approval of the Court, which Plaintiffs and Defendant  
3 jointly request, as follows:

- 4 • The parties shall be relieved of their obligations to comply with the Scheduling  
5 Order and General Order No. 56.
- 6 • On or before **December 19, 2012**: The parties shall complete the Initial  
7 Disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure.
- 8 • On or before **April 19, 2013**: The parties shall attend mediation before a mutually  
9 agreed upon mediator at JAMS Arbitration, Mediation and ADR services, or such  
10 other mediation service as the parties may select, for the purpose of discussing the  
11 complete resolution of Plaintiffs' claims. Prior to the mediation the parties agree  
12 to exchange information and documents relevant to the parties' dispute that may  
13 facilitate settlement, including the information required by General Order No. 56,  
14 ¶¶ 2-6. If the parties are unable to conclude a mediation prior this date, the parties  
15 agree to promptly inform the Court.
- 16 • On or before **May 10, 2013**: The parties agree to submit to the Court a Status  
17 Report informing the Court of the status of their settlement negotiations.
- 18 • On or before **May 10, 2013**: If the parties are unable to resolve the case prior to  
19 this date the parties shall also file a Joint Case Management Conference Statement  
20 providing all information required by the Court's Standing "Order Setting Case  
21 Management Conference" (dated May 9, 2011).
- 22 • On **Friday, May 17, 2013, at 8:30 a.m.**, in Courtroom 6, 17<sup>th</sup> Floor, 450 Golden  
23 Gate Avenue, San Francisco, California, or as is convenient for the Court: The  
24 parties shall appear for a Case Management Conference pursuant to Rule 16 of the  
25 Federal Rules of Civil Procedure before Judge Charles R. Breyer.

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1 Respectfully Submitted,

2 Dated: November 19, 2012

DISABILITY RIGHTS ADVOCATES

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4

By: /s/ Kevin Knestrick  
Kevin Knestrick

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Counsel for Plaintiffs

6

7 Dated: November 19, 2012

JONES DAY

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9

By: /s/ Robert A. Naeve  
Robert A. Naeve

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Counsel for Defendant  
WAL-MART STORES, INC.

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13 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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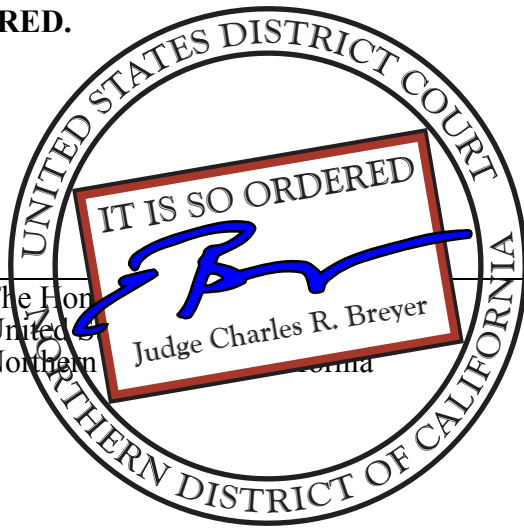
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Dated: November 21, 2012

By: \_\_\_\_\_

The Hon  
United  
Northern



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