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17 Attorneys for Defendant

18 UNITED STATES DISTRICT COURT  
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
20

21 BETTY DUKES, PATRICIA SURGESON,  
22 CLEO PAGE, DEBORAH GUNTER, KAREN  
WILLIAMSON, CHRISTINE KWAPNOSKI,  
23 AND EDITH ARANA on behalf of themselves,  
and on behalf of all other similarly situated,

24 Plaintiffs,

25 v.

26 WAL-MART STORES, INC.,

27 Defendant.  
28

CASE NO. C 01-2252 VRW (EMC)

**STIPULATION AND [PROPOSED]  
ORDER EXTENDING STAY OF ALL  
PROCEEDINGS PENDING SUPREME  
COURT REVIEW**

1           **WHEREAS**, on June 8, 2001, Betty Dukes filed a pro per single-plaintiff race discrimination  
2 claim against Wal-Mart Stores, Inc. (“Wal-Mart”);

3           **WHEREAS**, on June 19, 2001, Ms. Dukes and five additional plaintiffs filed a First  
4 Amended Complaint alleging that Wal-Mart discriminated against female store employees with  
5 respect to pay and promotions and seeking class-wide declaratory and injunctive relief, as well as  
6 backpay and punitive damages, under Title VII of the Civil Rights Act of 1964, on behalf of  
7 themselves and a purported class;

8           **WHEREAS**, the operative Third Amended Complaint was filed on September 12, 2002 and  
9 Wal-Mart timely filed its Answer on November 25, 2002;

10           **WHEREAS**, from 2001 to 2003, the parties participated in extensive discovery, which  
11 included nearly 200 depositions, as well as numerous interrogatories and requests for admission, and  
12 Wal-Mart also produced more than a million pages of documents to plaintiffs;

13           **WHEREAS**, on April 28, 2003, plaintiffs moved for class certification pursuant to Rule  
14 23(b)(2) and after briefing by the parties, on June 21, 2004, Judge Martin J. Jenkins issued an order  
15 certifying a class pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure;

16           **WHEREAS**, on August 13, 2004, the Ninth Circuit granted Wal-Mart’s petition for  
17 permission to appeal from the class certification order pursuant to Federal Rule 23(f) (case number  
18 04-16688) and also granted plaintiffs’ conditional cross-petition for permission to appeal the portion  
19 of the district court’s order denying certification with respect to promotion claimants for whom there  
20 is no objective evidence of interest in a promotion (case number 04-16720);

21           **WHEREAS**, on September 7, 2004, Judge Jenkins entered an order tolling certain promotion  
22 discrimination monetary relief claims, *see* Order Regarding Tolling of Specified Promotion  
23 Discrimination Monetary Relief Claims, Docket No. 653 (“the limitations period for monetary relief  
24 claims for class members who have claims for discrimination in promotion to management track  
25 positions that were certified in the Court’s June 22, 2004 Order shall be tolled until the earlier of (i) a  
26 further order of the Court on this issue, or (ii) final disposition of the promotion class claims”);

27 //

28

1           **WHEREAS**, on September 27, 2004, Judge Jenkins entered an order staying discovery until  
2 the appellate proceedings are concluded, *see* Order Staying Disclosures and Discovery, Docket No.  
3 655 (“the Court hereby orders disclosures and discovery stayed until the appeal of the order granting  
4 class certification is resolved by the Ninth Circuit”);

5           **WHEREAS**, on plaintiffs’ request, the stay was partially lifted to allow the April 2, 2008  
6 deposition of former Wal-Mart vice chairman Thomas M. Coughlin, III, in advance of which Wal-  
7 Mart produced tens of thousands of additional documents, but the parties have not otherwise sought  
8 to modify the blanket stay;

9           **WHEREAS**, on February 6, 2007, a Ninth Circuit panel issued a 2-1 decision affirming the  
10 certification order in its entirety, a decision that was revised by a December 11, 2007 2-1 opinion  
11 after briefing on Wal-Mart’s initial petition for rehearing en banc;

12           **WHEREAS**, the Ninth Circuit granted en banc rehearing and the en banc panel heard  
13 argument on March 24, 2009;

14           **WHEREAS**, on April 26, 2010, the Ninth Circuit en banc panel issued a 6-5 decision  
15 affirming portions of the class certification order, and vacating and remanding other portions of that  
16 order; and

17           **WHEREAS**, Wal-Mart intends to file a petition for a writ of certiorari in the United States  
18 Supreme Court to review the Ninth Circuit’s judgment, which petition is currently due on July 26,  
19 2010;

20           Wal-Mart and plaintiffs, through their respective counsel, **HEREBY STIPULATE AND**  
21 **AGREE AS FOLLOWS:**

- 22           1.           All proceedings in this case shall remain stayed until the Supreme Court rules on  
23                       Wal-Mart’s forthcoming petition for a writ of certiorari to review the Ninth  
24                       Circuit’s April 26, 2010 en banc decision.
- 25           2.           If Wal-Mart’s certiorari petition is granted, the stay shall continue until the case is  
26                       remanded to this Court following the Supreme Court’s decision on the merits.
- 27           3.           The parties shall jointly advise the Court within 10 court days after the Supreme  
28                       Court’s ruling on Wal-Mart’s certiorari petition, and, if applicable, the Supreme

Court's decision on the merits.

So stipulated.

DATED: May 12, 2010

THE IMPACT FUND  
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JOSEPH M. SELLERS

By: s/ Brad Seligman  
Brad Seligman

*Attorneys for Plaintiffs*

DATED: May 12, 2010

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MARK A. PERRY  
RACHEL S. BRASS

By: s/ Rachel S. Brass  
Rachel S. Brass

*Attorneys for Defendant  
WAL-MART STORES, INC.*

**I, Rachel S. Brass attest that concurrence in the filing of this document has been obtained from each of the other signatories.**

[PROPOSED] ORDER

PURSUANT TO THE STIPULATION OF THE PARTIES,

1. All proceedings in this case shall remain stayed until the Supreme Court rules on Wal-Mart's forthcoming petition for a writ of certiorari to review the Ninth Circuit's April 26, 2010 en banc decision.
2. If Wal-Mart's certiorari petition is granted, the stay shall continue until the case is remanded to this Court following the Supreme Court's decision on the merits.
3. The parties shall jointly advise the Court within 10 court days after the Supreme Court's ruling on Wal-Mart's certiorari petition, and, if applicable, the Supreme Court's decision on the merits.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2010

\_\_\_\_\_  
Honorable Vaughn R. Walker  
Chief United States District Judge

**DECLARATION OF SERVICE**

I, Robin Bradford, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission Street, Suit 3000, San Francisco, California 94105, in said County and State. On May 12, 2010, I served the within:

**JOINT CASE STATUS REPORT**

to all interested parties as follows:



**BY ECF (ELECTRONIC CASE FILING):** I e-filed the above-detailed documents utilizing the United States District Court, Northern District of California's mandated ECF (Electronic Case Filing) service on July 17, 2008. Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the documents upon confirmation of e-filing.

I certify under penalty of perjury that the foregoing is true and correct, that the foregoing document(s) were printed on recycled paper, and that this Declaration of Service was executed by me on May 12, 2010, at San Francisco, California.

/s:/Robin Bradford  
Robin Bradford