

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jason H. Wilson (SBN 140269); W. Scott Norton (SBN 122361) WILLENKEN WILSON LOH & LIEB LLP 707 Wilshire Blvd., Suite 3850 Los Angeles, CA 90017 TELEPHONE NO.: (213) 955-9240 FAX NO. (Optional): (213) 955-9250 E-MAIL ADDRESS (Optional): jwilson@willenken.com; snorton@willenken.com ATTORNEY FOR (Name): Walgreen Co.</p>	<p>FOR COURT USE ONLY</p> <p>CONFORMED COPY ORIGINAL FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</p> <p>DEC 22 2010</p> <p>John A. Clarke, Executive Officer/Clerk BY <u>Glorietta Robinson</u>, Deputy Glorietta Robinson</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse</p>	
<p>PLAINTIFF/PETITIONER: Patrick Galentine, as Receiver for Nordhoff Way DEFENDANT/RESPONDENT: Walgreen Co.</p>	
<p style="text-align: center;">CASE MANAGEMENT STATEMENT</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)</p>	<p>CASE NUMBER: BC443562</p>
<p>A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: January 7, 2011 Time: 9:00 am Dept.: 39 Div.: Room: Address of court (if different from the address above): <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name):</p>	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. This statement is submitted by party (name): Defendant Walgreen Co.
 - b. This statement is submitted jointly by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date): August 12, 2010
 - b. The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):

4. **Description of case**
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):

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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

The parties entered into a lease for Defendant to occupy a space in Plaintiff's predecessor's shopping center. Under the lease, Defendant could either open a store, sublease the space, or assign the lease. Regardless of which option it chose, Defendant was required to pay a sum certain in rent. Defendant has consistently paid, and continues to pay, the required rent. Nonetheless, Plaintiff has sued, apparently for the purpose of compelling Defendant to actually open a store under the doctrine of specific performance. (cont. on attachment)

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. The trial has been set for *(date)*:
- b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. days *(specify number)*: 2 days
- b. hours *(short causes) (specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. Fax number:
- f. E-mail address:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative Dispute Resolution (ADR)**

- a. Counsel has has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.
- b. All parties have agreed to a form of ADR. ADR will be completed by *(date)*:
- c. The case has gone to an ADR process *(indicate status)*:

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10. d. The party or parties are willing to participate in (check all that apply):
- (1) Mediation
 - (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
 - (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
 - (4) Binding judicial arbitration
 - (5) Binding private arbitration
 - (6) Neutral case evaluation
 - (7) Other (specify):

- e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g. This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):

11. Settlement conference

- The party or parties are willing to participate in an early settlement conference (specify when):
Spring 2011

12. Insurance

- a. Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

- Bankruptcy Other (specify):
- Status:

14. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 14a.
- b. A motion to consolidate coordinate will be filed by (name party):

15. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

- The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):
Walgreens is considering a cross-complaint.

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17. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Defendant	Written discovery	March 2011
Defendant	Deposition (s) of Plaintiff's predecessor entities and/or principals therein	June 2011

- c. The following discovery issues are anticipated (*specify*):

18. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

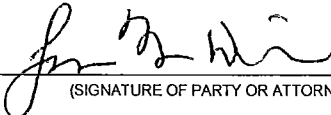
21. Total number of pages attached (*if any*): 1

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: December 22, 2010

Jason H. Wilson

 (TYPE OR PRINT NAME)

▶ 

 (SIGNATURE OF PARTY OR ATTORNEY)

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

Attachment 4b (continued)

Plaintiff's Complaint ignores the alternative provisions of the lease which allow subletting and/or assignment, both of which are squarely at odds with a forced occupation of the store by Defendant itself. Plaintiff's Complaint also raises ancillary obligations of Defendant which exist only if Defendant actually occupies the space. Since it did not do so those obligations do not apply.

PROOF OF SERVICE

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**STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)**

I am employed in the county of Los Angeles State of California. I am over the age of 18 and not a party to the within action; my business address is: 707 Wilshire Boulevard, Suite 3850, Los Angeles, CA 90017.

On **December 22, 2010**, I served the foregoing document(s) described as: **CASE MANAGEMENT STATEMENT** on the interested parties in this action.

By placing the original true copies thereof enclosed in sealed envelopes addressed as follows:

Stephen R. Thames
Brian R. Bauer
**ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP**
1900 Main Street, Fifth Floor
Irvine, California 92614
Tel: (949) 553-1313
Fax: (949) 553-8354
sthames@allenmatkins.com
bbauer@allenmatkins.com

BY FIRST CLASS MAIL I placed such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY OVERNIGHT COURIER I caused each envelope with fees prepaid shipped by Federal Express.

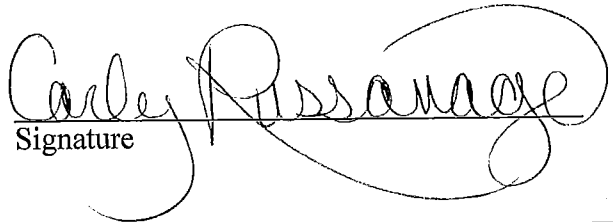
BY TELECOPIER by transmitting the above listed document(s) to the fax number(s) set forth above on this date.

BY ELECTRONIC MAIL transmission of the document(s) set forth above, at the e-mail address indicated below.

Executed on **December 22, 2010**, at Los Angeles, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

CARLY RUSSAVAGE
Type or Print Name


Signature