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| <p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p> | |
| <p>STATE OF COLORADO <i>ex rel.</i> PHILIP J. WEISER, Attorney General, Plaintiff, v. THE KROGER CO.; ALBERTSONS COMPANIES, INC.; and C&S WHOLESALE GROCERS, LLC, Defendants.</p> | <p>▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number: 2024CV30459</p> <p>Div.: 414 Ctrm.:</p> |
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JOINT STIPULATED ORDER FOR TEMPORARY INJUNCTIVE RELIEF

Subject to the Court’s approval, the Parties hereby stipulate to a preliminary injunction that will prevent the Kroger-Albertsons merger from closing until five business days after this Court rules on the State’s request for a permanent injunction (should the court deny it).

1. Plaintiff the State of Colorado filed its Complaint on February 14, 2024, against Defendants The Kroger Co., Albertsons Companies, Inc., and C&S Wholesaler Grocers, LLC (“Defendants”). The Complaint sought, *inter alia*, a permanent injunction to “[e]njoin and restrain Defendants and all persons acting on their behalf from consummating the Proposed Merger[.]”

2. The State filed a Motion for Preliminary Injunction on the same date as its Complaint, seeking to maintain the status quo and prevent the proposed merger from closing until a final judgment on the merits by this Court.

3. At the State’s request, and over Defendants’ objections, this Court scheduled two evidentiary hearings in this case: (1) an evidentiary hearing on the State’s Motion for Preliminary Injunction, set to begin on August 12, 2024; and (2) a trial on the merits, set to begin on September 30, 2024, on the claims for relief presented in the Complaint, including the State’s request for permanent injunctive relief. At the Defendants’ request, and over the State’s Objection, the Court set the trial on the merits on an accelerated basis to commence just 7 months after the filing of the Complaint in this complex matter.

4. To conserve judicial and party resources, the parties have agreed to an Order for Temporary Injunctive Relief, attached hereto as Exhibit A.

5. Defendants’ agreement to this stipulation shall be withdrawn and the stipulation null and void if the Stipulated Order for Temporary Injunctive Relief is not entered by the Court as submitted on or before July 26, 2024.

DATED this 24th day of July, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document has been served on all counsel who have entered an appearance in this matter through Colorado Courts E-Filing, on July 24, 2024.

/s/ Randall H. Miller _____
Randall H. Miller