

1 MORGAN, LEWIS & BOCKIUS LLP  
 ERIC W. SITARCHUK, Admitted *pro hac vice*  
 2 [eric.sitarchuk@morganlewis.com](mailto:eric.sitarchuk@morganlewis.com)  
 KELLY A. MOORE, Admitted *pro hac vice*  
 3 [kelly.moore@morganlewis.com](mailto:kelly.moore@morganlewis.com)  
 BENJAMIN P. SMITH, Bar No. 197551  
 4 [benjamin.smith@morganlewis.com](mailto:benjamin.smith@morganlewis.com)  
 MICHAEL Q. EAGAN, JR., Bar No. 275823  
 5 [michael.eagan@morganlewis.com](mailto:michael.eagan@morganlewis.com)  
 One Market, Spear Street Tower  
 6 San Francisco, CA 94105-1596  
 Tel: +1.415.442.1000; Fax: +1.415.442.1001  
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8 Attorneys for Defendant  
 RITE AID CORPORATION

9 *[Additional counsel on signature page]*

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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14 UNITED STATES OF AMERICA, and the  
 STATE OF CALIFORNIA, et al., ex rel.  
 15 LOYD F. SCHMUCKLEY, JR.,

16 Plaintiffs,

17 vs.

18 RITE AID CORPORATION,

19 Defendant.

20 STATE OF CALIFORNIA *ex rel.* LOYD F.  
 21 SCHMUCKLEY, JR.,

22 Plaintiffs,

23 vs.

24 RITE AID CORPORATION,

25 Defendant.

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Case No. 2:12-cv-01699-KJM-EFB

**JOINT STIPULATION AND ORDER  
 MODIFYING PHASE 1 BRIEFING  
 DEADLINES [ECF NO. 176]**

Complaint Filed: September 21, 2017

**RECITALS**

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2           WHEREAS, on December 12, 2018, the Court issued an order [ECF No. 176] (“Order”)  
3 modifying certain deadlines for Phase 1 and Phase 2 discovery in this matter, including the  
4 deadlines for briefing regarding Defendant Rite Aid Corporation’s (“Defendant”) Motion  
5 Challenging Plaintiffs’ Sampling Methodology and Design (“Motion”);

6           WHEREAS, Defendant continues to seek documents and testimony it contends are  
7 relevant to its Motion, including from the United States Attorney’s Office for the Eastern District  
8 of California (“USAO”) and California’s Department of Health Care Services (“DHCS”);

9           WHEREAS, pursuant to the Order, on February 15, 2019, Defendant served Report No. 1  
10 of Dr. Roy J. Epstein, PhD, Defendant’s sampling expert;

11           WHEREAS, pursuant to the Court’s prior Order, Dr. Epstein’s deposition was ordered to  
12 take place prior to March 29, 2019;

13           WHEREAS, Dr. Epstein is now unavailable for deposition during the month of March  
14 2019 because he is currently running to be elected as a selectman in his home town of Belmont,  
15 Massachusetts, with the election being set for April 2, 2019;

16           WHEREAS, in light of the above, plaintiff-in-intervention the State of California (“State”  
17 or “California”), *qui tam* plaintiff Loyd F. Schmuckley, Jr. (“Relator,” together with the State,  
18 “Plaintiffs”), and Defendant (together with the Plaintiffs, the “Parties”) have met and conferred,  
19 and intend to proceed with Dr. Epstein’s deposition on April 10, 2019 in Boston, Massachusetts;  
20 and

21           WHEREAS, the Parties hereby agree that a two-week extension of the briefing deadlines  
22 for Defendant’s Motion set forth in the Order is warranted to alleviate the scheduling issues  
23 discussed above;

24           The Parties hereby stipulate and agree as follows:

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**STIPULATION**

The Parties stipulate and request that the Court order the following modifications to its December 12, 2018 Order:

<b>Event</b>	<b>Current Date [ECF No. 176]</b>	<b>Proposed Modified Date</b>
Defendant's Disclosure of Sampling Methodology Expert Report and Materials	2/15/2019	2/15/2019 [Unchanged]
Last Day to Depose Defendant's Sampling Methodology and Statistical Expert	3/29/2019	<b>4/10/2019</b>
Defendant's Motion Challenging Plaintiffs' Sampling Methodology and Design	4/1/2019	<b>4/15/2019</b>
Plaintiffs' Opposition Brief	5/1/2019	<b>5/15/2019</b>
Defendant's Reply Brief	5/22/2019	<b>6/5/2019</b>
Hearing on Motion	6/14/2019 at 10:00 A.M. in Courtroom No. 3	6/14/2019 at 10:00 A.M. in Courtroom No. 3 [Unchanged <sup>1</sup> ]
First Phase of Discovery Completed	6/26/2019	6/26/2019 [Unchanged]

Respectfully Submitted,

Dated: March 6, 2019

XAVIER BECERRA  
California Attorney General

/s/ Emmanuel R. Salazar as authorized on 3/6/2019  
EMMANUEL R. SALAZAR  
Deputy Attorney General  
*Attorneys for the State of California*

<sup>1</sup> The Parties do not propose modification of the hearing date at this time. However, if the Court feels it may need more time to review and analyze the Parties' respective briefing following the filing of Defendant's reply, the Parties are amenable to the Court's moving this hearing to a more convenient date.

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Dated: March 6, 2019

WATERS & KRAUS LLP

/s/ Wm. Paul Lawrence II as authorized on 3/6/2019  
WM. PAUL LAWRENCE II  
*Attorneys for Loyd F. Schmuckley, Jr.*

Dated: March 6, 2019

MORGAN, LEWIS & BOCKIUS, LLP


/s/ Michael Q. Eagan, Jr.  
BENJAMIN P. SMITH  
MICHAEL Q. EAGAN, JR.  
*Attorneys for Rite Aid Corporation*

**ORDER**

The above having been stipulated by the Parties, and the Court finding good cause therefor,

**IT IS SO ORDERED** that the dates outlined in the Court’s December 12, 2018 Order [ECF No. 176] are hereby modified as proposed and set forth in the Stipulation above. The court also resets the June 14, 2019 Hearing on Motion date to June 28, 2019, at 10:00 A.M., due to adjustments in Judge Mueller’s calendar schedule.

DATED: March 11, 2019.

  
UNITED STATES DISTRICT JUDGE