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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

RITE AID CORPORATION,

Defendant.

No. 2:12-cv-1699-KJM-EFB

ORDER AFTER HEARING

This case was before the court on October 30, 2019, for hearing on plaintiff-intervenor State of California's motion to compel defendant Rite Aid Corporation to provide further responses to California's Request for Production of Documents ("RPD") numbers 17-38 (ECF No. 249) and defendant Rite Aid's motion for an extension of time to provide responses to California's discovery requests and to comply with the court's July 2, 2019 order (ECF No. 250). California Deputy Attorneys General Emmanuel Salazar and Bernice Yew appeared on behalf of California. Attorney Benjamin Smith appeared on behalf of Rite Aid.

As discussed at the hearing, Rite Aid has produced some, but not all, of the documents responsive to California's RPD Nos. 17-38. With respect to those that have been produced, Rite Aid's production does not allow for California to determine, with reasonable effort, which documents are responsive to each specific request. Accordingly, Rite Aid must supplement its

1 discovery responses to identify which documents are responsive to each of the requests in
2 California’s Requests for Production of Documents, Set 7 (i.e., RPD Nos. 17-38). *See City of*
3 *Colton v. Am. Promotional Events, Inc.*, 227 F.R.D. 578, 584-85 (C.D. Cal. 2011) (“[A] party
4 exercising Rule 34’s option to produce records as they are kept in the usual course of business
5 should organize the documents in such a manner that the requesting party may obtain, with
6 reasonable effort, the documents responsive to their requests The standard this Court will use
7 in determining what is required will be whether the production allows the requesting party to
8 reasonably determine what documents are responsive to its requests. If it does, the production
9 complies with Rule 34(b)(2)(E)(i)”); *E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 WL
10 2583672, at * 2 (E.D. Cal. Sept. 7, 2006) (“Despite Defendant’s representation that it has
11 produced 1026 pages of documents, each grouping of which has been neatly labeled to designate
12 the category of documents at issue, it is reasonable for Plaintiff to request a supplemental
13 response which enables them to determine which documents are responsive to each request.”). It
14 must do the same for the documents it produced in response to California’s RPD Nos. 1, 2, 15,
15 16, which were the subject of the July 2, 2019 order—the order that Rite Aid currently seeks an
16 extension of time to comply with. *See* ECF Nos. 225, 250.

17 Accordingly, for these reasons, and for the additional reasons stated on the record, it is
18 hereby ORDERED that California’s motion to compel (ECF No. 249) and Rite Aid’s request for
19 an extension of time (ECF No. 250) are granted as follows:

20 1. Rite Aid shall produce all documents responsive to California’s RPD Nos. 17-38 by no
21 later than November 25, 2019.

22 2. The deadline for Rite Aid to comply with the court’s July 2, 2019 order, including its
23 requirement that Ride Aid produce all “patient medication profiles,” is extended to November 25,
24 2019.

25 3. By no later than November 25, 2019, Rite Aid shall also provide a supplemental
26 response to California’s RPD Nos. 1, 2, 15, 16, and 18-38 that identifies which documents are
27 responsive to each request.

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1 4. The scheduling dates related to Rite Aid's eleventh affirmative defense, as set forth in
2 the court's September 30, 2019 order (*see* ECF No. 244 at 7-8), are modified as follows:

Event	New Deadline
Rite Aid Corporation's production of documents responsive to RFP Set No. 7	November 25, 2019
Parties' stipulation, if agreed upon, to amend the named defendant with relation back (including removal of Rite Aid Corporation from pleadings)	December 13, 2019
Plaintiffs' motion to amend the pleadings (if necessary following Parties' inability to stipulate)	January 2, 2020
Defendant's opposition to motion to amend	February 10, 2020
Plaintiffs' reply re motion to amend	February 24, 2020
Hearing on Plaintiffs' motion to amend the pleadings	TBD ¹

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15 So Ordered.

16 DATED: November 4, 2019.

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18 EDMUND F. BRENNAN
19 UNITED STATES MAGISTRATE JUDGE

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28 ¹ All other scheduling dates set forth in the court's September 30, 2019 order remain in place.