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13 UNITED STATES DISTRICT COURT

14 FOR THE EASTERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs,

19 vs.

20 RITE AID CORPORATION, RITE AID  
 21 HDQTRS. CORP., THRIFTY PAYLESS, INC.

22 Defendants.

23 STATE OF CALIFORNIA *ex rel.* LLOYD F.  
 24 SCHMUCKLEY, JR.,

25 Plaintiffs,

26 Vs.

27 RITE AID CORPORATION, RITE AID  
 HDQTRS. CORP., THRIFTY PAYLESS, INC.

28 Defendants.

Case No.: 2:12-cv-1699 KJM JDP

**STIPULATION REGARDING  
 ADMISSIBILITY AND  
 AUTHENTICITY OF CERTAIN  
 RITE AID PHARMACY RECORDS  
 AND COMMUNICATIONS; ORDER**

**RECITALS**

1  
2 WHEREAS, Plaintiff-Intervenor State of California (“California”) served Rule 36  
3 Requests for Admission, Set No. 3 on Defendants Rite Aid Corporation, Rite Aid Hdqtrs. Corp.  
4 and Thrifty Payless, Inc. (collectively, “Rite Aid”);

5 WHEREAS, California’s Requests for Admission, Set No. 3 included Requests for  
6 Admission Nos. 59-65, which asked Rite Aid to admit that certain documents defined in  
7 California’s Requests for Admission as “Pharmacy Records”—which Rite Aid previously  
8 produced in this action, and which correspond to the 1,904 sample claim transactions at issue in  
9 this action—fall within the scope of Federal Rule of Evidence 803(6);

10 WHEREAS, California’s Requests for Admission, Set No. 3 included Request for  
11 Admission No. 66, which asked Rite Aid to admit that each Pharmacy Record is authentic within  
12 the meaning of Federal Rule of Evidence 901;

13 WHEREAS, the Pharmacy Records that are subject to this Stipulation (“Pharmacy  
14 Records”) are listed separately by Bates number in Exhibit “A” to this Stipulation;

15 WHEREAS, California’s Requests for Admission, Set No. 3 included Request for  
16 Admission Nos. 73-87, which asked Rite Aid to admit that certain internal communications  
17 produced by Rite Aid in this action—which Rite Aid produced with Bates numbers  
18 RAID0000413-RAID0000414, RAID0001404-RAID0001405, RAID0001439-RAID0001440,  
19 RAID0000716-RAID0000718 and RAID0001192-RAID0001193 (collectively, the “Code 1  
20 Communications”)—are admissible and authentic within the meaning of the Federal Rules of  
21 Evidence;

22 WHEREAS, in response to the Requests for Admission specified above, Rite Aid asserted  
23 various objections, but proposed that it was willing to enter into a stipulation regarding the  
24 subject matter of these Requests; and

25 WHEREAS, Rite Aid, California, and Relator Loyd F. Schmuckley, Jr. (collectively, the  
26 “Parties”) enter into this Stipulation to relieve the Parties and the Court from having to devote  
27 resources to an evidentiary dispute regarding the authenticity and admissibility of the Pharmacy  
28 Records and the Code 1 Communications.

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**STIPULATION**

NOW THEREFORE, the Parties, by and through their respective counsel, stipulate and agree as follows:

1. The Parties waive any objection(s) to the admissibility of the Pharmacy Records on the grounds that they do not meet the requirements of Federal Rule of Evidence 901.
2. The Parties waive any objections to the admissibility of the Pharmacy Records on the grounds that they do not meet the requirements of Federal Rule of Evidence 803(6).
3. The Parties waive any objections to the admissibility of the Code 1 Communications under the Federal Rules of Evidence.

**IT IS SO STIPULATED.**

Respectfully submitted,

ROB BONTA  
Attorney General of the State of California

Dated: August 23, 2021

By /s/ Kevin Davis  
Kevin C. Davis  
Deputy Attorney General  
Attorneys for Plaintiff-Intervenor STATE OF CALIFORNIA

WATERS & KRAUS, LLP

Dated: August 23, 2021

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MORGAN, LEWIS & BOCKIUS LLP

Dated: August 23, 2021

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**IT IS SO ORDERED.**

DATED: August 30, 2021.

  
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CHIEF UNITED STATES DISTRICT JUDGE