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12 UNITED STATES DISTRICT COURT

13 FOR THE EASTERN DISTRICT OF CALIFORNIA

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

16 Plaintiffs,

17 vs.

18 RITE AID CORPORATION, RITE AID  
 19 HDQTRS. CORP., and THRIFTY PAYLESS,  
 INC.

20 Defendants.

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

23 Plaintiffs,

24 vs.

25 RITE AID CORPORATION, RITE AID  
 26 HDQTRS. CORP., and THRIFTY PAYLESS,  
 INC.

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

**JOINT STIPULATION AND ORDER  
REGARDING MEDIATION; ORDER**

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**RECITALS**

WHEREAS, the parties recognize the time and costs associated with litigation and the possibility of resolving the Government’s False Claims Act causes of action by way of private mediation;

WHEREAS, the parties have met and conferred, and on October 25, 2021, the parties agreed to contract with Barbara Reeves (“Ms. Reeves”) of JAMS to conduct mediation in this matter;

WHEREAS, the parties and Ms. Reeves have indicated their availability to conduct a mediation of this matter December 21, 2021; and

WHEREAS, the parties are entering into this Stipulation in good faith.

**STIPULATION**

THE PARTIES, BY AND THROUGH THEIR RESPECTIVE COUNSEL, THEREFORE HEREBY STIPULATE AND AGREE TO THE FOLLOWING:

The parties agree to enter into mediation of this case before Ms. Reeves on December 21, 2021, or any other days that the parties may agree upon.

The parties agree that any party may use a statistical expert in connection with the mediation and as a disclosed expert in this matter. However, the parties agree that all work and communications, in any form whatsoever, by or with their respective statistical expert in connection with the mediation are not discoverable. The parties agree that all documents, communications, and other work, in any form whatsoever, by the party and the party’s statistical expert in connection with the mediation are confidential and will not be used by any party in any way other than in furtherance of the mediation or in connection with the enforcement of any settlement agreement that may result from it. The parties agree that, by use of a statistical expert in connection with mediation efforts, no party waives any privilege whatsoever in connection with any documents, communications, or other work, in any form whatsoever, by or with the party’s statistical expert.

The parties agree that except as otherwise required by law or as stipulated in writing by all parties, all communications made in connection with the mediation shall be privileged and

1 confidential and will not be used other than in furtherance of the mediation or in connection with  
2 the enforcement of any settlement agreement that may result from it.

3 The parties agree that Plaintiffs will pay 50% and Defendants will pay 50% of any and all  
4 of the mediator's fees including any case management fees.

5 The parties agree to apprise the Court as soon as practicable if the mediation leads to any  
6 resolution.

7 IT IS SO STIPULATED.

8 Respectfully submitted,

9 Dated: 11/4/2021

10 ROB BONTA  
Attorney General of the State of California

11 By /s/ Emmanuel R. Salazar

12 Emmanuel R. Salazar  
13 Deputy Attorney General  
Attorneys for Plaintiff-Intervenor STATE OF  
14 CALIFORNIA

15 Dated: 11/4/2021

16 WATERS & KRAUS, LLP

17 By /s/ Jennifer L. Bartlett (authorized on 11/4/2021)

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25 LOYD F. SCHMUCKLEY, JR.

26 Dated: 11/4/2021

27 MORGAN, LEWIS & BOCKIUS LLP

28 By /s/ Benjamin P. Smith (authorized on 11/4/2021)

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Attorneys for Defendants  
RITE AID CORPORATION, RITE AID  
HDQTRS. CORP., THRIFTY PAYLESS, INC.

1 **ORDER**

2 The Court, having considered the Joint Stipulation regarding Mediation, finds good cause  
3 and ORDERS THAT the Joint Stipulation is approved and FURTHER ORDERS THAT

4 1. The parties shall attend the mediation on December 21, 2021 and any other  
5 additional days that the parties may agree upon.

6 2. All work and communications, in any form whatsoever, by or with a party's  
7 statistical expert in connection with the mediation are not discoverable. All documents,  
8 communications, and other work, in any form whatsoever, by the party and the party's statistical  
9 expert in connection with the mediation are confidential and will not be used by any party in any  
10 way other than in furtherance of the mediation or in connection with the enforcement of any  
11 settlement agreement that may result from it. By use of a statistical expert in connection with  
12 mediation efforts, no party waives any privilege whatsoever in connection with any documents,  
13 communications, or other work, in any form whatsoever, by or with the party's statistical expert.

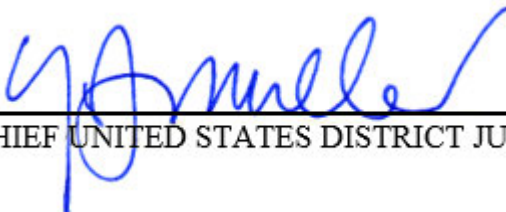
14 3. Except as otherwise required by law or as stipulated in writing by all parties, all  
15 communications made in connection with the mediation shall be privileged and confidential and  
16 will not be used other than in furtherance of the mediation or in connection with the enforcement  
17 of any settlement agreement that may result from it.

18 4. Plaintiffs shall pay 50% and Defendants shall pay 50% of any and all of the  
19 mediator's fees including any case management fees.

20 5. The parties shall apprise the Court as soon as practicable if the mediation leads to  
21 any resolution.

22 **IT IS SO ORDERED.**

23 DATED: November 8, 2021.

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26 CHIEF UNITED STATES DISTRICT JUDGE  
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