

1 ROB BONTA
 Attorney General of California
 2 VINCENT DICARLO
 Supervising Deputy Attorney General
 3 BERNICE L. LOUIE YEW, State Bar No. 114601
 Deputy Attorney General
 4 Email: Bernice.Yew@doj.ca.gov
 EMMANUEL R. SALAZAR, State Bar No. 240794
 5 Deputy Attorney General
 E-mail: Emmanuel.Salazar@doj.ca.gov
 6 KEVIN C. DAVIS, State Bar No. 253425
 Deputy Attorney General
 7 E-mail: Kevin.Davis@doj.ca.gov
 2329 Gateway Oaks Drive, Suite 200
 8 Sacramento, CA 95833-4252
 Telephone: (916) 621-1835
 9 Fax: (916) 274-2929

10 *Attorneys for State of California*
 11 *(Additional counsel listed on signature page)*

13 UNITED STATES DISTRICT COURT
 14 FOR THE EASTERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs,

19 vs.

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

21 Defendants.

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

24 Plaintiffs,

25 Vs.

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

27 Defendants.

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

**JOINT STIPULATION TO AMEND
 SCHEDULING ORDER; ORDER**

1 **RECITALS**

2 WHEREAS, Plaintiff State of California as represented in this action by the Division of
3 Medi-Cal Fraud and Elder Abuse (“DMFEA”) has issued a 30(b)(6) deposition notice on
4 Defendants Rite Aid Corporation, Rite Aid Hdqtrs. Corp., and Thrifty Payless, Inc. (together,
5 “Defendants”) and has expressed its intent to depose around 13 corporate fact witnesses;

6 WHEREAS, Defendants assert that at least 2 of Defendants’ corporate fact witnesses
7 would testify on behalf of Defendants regarding the listed subject matters in DMFEA’s 30(b)(6)
8 deposition notice;

9 WHEREAS, the parties at the time of this filing have conducted at least 4 depositions of
10 Defendants’ corporate fact witnesses;

11 WHEREAS, the Court is reviewing in camera certain documents that Defendants asserted
12 privilege therefor and these documents involved several of Defendants’ corporate fact witnesses
13 and 30(b)(6) witnesses (ECF No. 450);

14 WHEREAS, for efficiency with respect to the corporate fact witnesses involved with said
15 documents, the parties believe that depositions of these corporate fact witnesses should be
16 conducted after the Court has issued an order resolving the disputes concerning Defendants’
17 asserted privileges;

18 WHEREAS, DMFEA has propounded on Defendants Requests for Production of
19 Documents related to Medi-Cal Code 1 audits (e.g., DMFEA’s Request for Production of
20 Documents Nos. 9, 33, 130);

21 WHEREAS, DMFEA and Defendants are continuing to meet and confer regarding
22 whether Defendants have complied with DMFEA’s Requests for Production of Documents
23 related to Medi-Cal Code 1 audits (including whether Defendants diligently conducted
24 electronically stored information (“ESI”) and non-ESI searches, as well as Defendants’ purported
25 “custodial” and “non-custodial” searches);

26 WHEREAS, Defendant Rite Aid Corporation propounded on DMFEA Requests for
27 Production of Documents (e.g., Rite Aid Corporation’s Requests for Production of Documents
28

1 Nos. 6, 25, 26, 27, 55, and 56) and Interrogatories (e.g., Interrogatory Nos. 19, 21, 22, and 23),
2 related to Medi-Cal Code 1 audits;

3 WHEREAS, DMFEA and Defendants are continuing to meet and confer regarding
4 whether DMFEA has substantially complied with Rite Aid Corporation's Requests for Production
5 of Documents and Interrogatories, related to Medi-Cal Code 1 audits (i.e., whether DMFEA is
6 obligated to search for responsive documents in the possession, custody, or control of another
7 state agency);

8 WHEREAS, Defendant Rite Aid Corporation issued a documents subpoena on the
9 Department of Health Care Services ("DHCS") requesting Medi-Cal Code 1 audits;

10 WHEREAS, the parties and DHCS are continuing to meet and confer regarding Rite Aid
11 Corporation's document subpoena related to Medi-Cal Code 1 audits (i.e., whether third-party
12 DHCS must conduct more comprehensive searches in light of stated objections including
13 proportionality);

14 WHEREAS, Defendant Rite Aid Corporation issued a deposition subpoena on DHCS
15 covering several subject matters;

16 WHEREAS, DHCS identified at least 8 persons who would testify regarding the subject
17 matters in Rite Aid Corporation's deposition subpoena;

18 WHEREAS, the parties and DHCS are continuing to meet and confer about Rite Aid
19 Corporation's deposition subpoena on DHCS, including the scope of the topics included in the
20 deposition subpoena;

21 WHEREAS, Defendants have issued a 30(b)(6) deposition notice on DMFEA;

22 WHEREAS, DMFEA has objected to Defendants' 30(b)(6) deposition notice on DMFEA
23 and the parties are continuing to meet and confer regarding DMFEA's objections;

24 WHEREAS, Defendant Thrifty Payless, Inc. has propounded on DMFEA Requests for
25 Admissions Set One and Interrogatories Set One, related to Medi-Cal managed care;

26 WHEREAS, DMFEA and Defendants are continuing to meet and confer regarding Thrifty
27 Payless, Inc. Requests for Admissions Set One and Interrogatories Set One; and
28

1 WHEREAS, the parties recognize the remaining time and pending discovery tasks in light
2 of the current scheduling order.

3 **STIPULATION**

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

6 The parties agree to amend the scheduling order as follows:

7

Event	Current Deadline	Proposed Modified Deadline
8 Meet and Confer Hearing 9 with the magistrate judge on 10 any and all discovery disputes 11 related to 12 • Rite Aid 13 Corporation's 14 Requests for 15 Production of 16 Documents Nos. 6, 25, 17 26, 27, 55, and 56; 18 • Rite Aid 19 Corporation's 20 documents subpoena 21 on the Department of 22 Health Care Services 23 ("DHCS") requesting 24 Medi-Cal Code 1 25 audits; 26 • Rite Aid 27 Corporation's 28 Interrogatory Nos. 19, 29 20, 21, and 23; 30 • Thrifty Payless, Inc.'s 31 Request for 32 Admissions Set One; 33 and 34 • Thrifty Payless, Inc.'s 35 Interrogatories Set 36 One	N/A	No later than October 7, 2022
Close of Fact Discovery	September 2, 2022	March 2, 2023
Expert Disclosures (other than sampling methodology/design)	November 4, 2022	May 5, 2023

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

ORDER

The Court, having considered the Joint Stipulation to Amend Scheduling Order, finds good cause and ORDERS THAT the Joint Stipulation to Amend Scheduling Order is approved and FURTHER ORDERS THAT the scheduling order is amended as follows:

Event	Current Deadline	Proposed Modified Deadline
Meet and Confer Hearing with the magistrate judge on any and all discovery disputes related to <ul style="list-style-type: none">Rite Aid Corporation's Requests for Production of Documents Nos. 6, 25, 26, 27, 55, and 56;Rite Aid Corporation's documents subpoena on the Department of Health Care Services ("DHCS") requesting Medi-Cal Code 1 audits;Rite Aid Corporation's Interrogatory Nos. 19, 20, 21, and 23;Thrifty Payless, Inc.'s Request for Admissions Set One; andThrifty Payless, Inc.'s Interrogatories Set One	N/A	No later than October 7, 2022
Close of Fact Discovery	September 2, 2022	March 2, 2023
Expert Disclosures (other than sampling methodology/design)	November 4, 2022	May 5, 2023
Rebuttal expert disclosures (other than sampling methodology/design)	December 2, 2022	June 2, 2023
Expert discovery completed	January 13, 2023	July 7, 2023
Last day to hear dispositive motion	July 14, 2023	January 12, 2024

IT IS SO ORDERED.

DATED: August 25, 2022.



CHIEF UNITED STATES DISTRICT JUDGE