

1 MORGAN, LEWIS & BOCKIUS LLP
 2 TERA M. HEINTZ, State Bar No. 241414
 3 tera.heintz@morganlewis.com
 4 One Market Spear Street Tower
 5 San Francisco, CA 94105-1126
 6 Tel: +1.415.442.1000
 7 Fax: +1.415.442.1001

8 Attorneys for Defendant
 9 RITE AID CORPORATION

10 UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA

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

15 Plaintiffs,

16 vs.

17 RITE AID CORPORATION,

18 Defendant.

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

**JOINT STIPULATION AND ORDER
 EXTENDING DEFENDANT RITE
 AID CORPORATION'S TIME TO
 FILE CONSOLIDATED MOTION TO
 DISMISS STATE OF CALIFORNIA'S
 COMPLAINT-IN-INTERVENTION
 AND RELATOR'S FIRST AMENDED
 COMPLAINT**

Complaint Filed: September 21, 2017

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

21 Plaintiffs,

22 Vs.

23 RITE AID CORPORATION,

24 Defendant.

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

JOINT STIPULATION AND ORDER EXTENDING DEFENDANT RITE AID CORPORATION'S TIME TO FILE CONSOLIDATED
 MOTION TO DISMISS STATE OF CALIFORNIA'S COMPLAINT-IN-INTERVENTION AND RELATOR'S FIRST AMENDED
 COMPLAINT

1 Plaintiff the State of California (“State”), *qui tam* relator Loyd Schmuckley (“Relator”),
2 and defendant Rite Aid Corporation (“Defendant,” and jointly with State and Relator, the
3 “Parties”) hereby enter into this joint stipulation and proposed order for the Court’s consideration:

4 **RECITALS**

5 **WHEREAS**, the State filed its Complaint-in-Intervention (“State’s Complaint”) with the
6 Court in this action on September 21, 2017 (Dkt. 57);

7 **WHEREAS**, Defendant agreed to waive formal service of the State’s Complaint and
8 summons upon it pursuant to Fed. R. Civ. P. 4(d), establishing Defendant’s deadline to respond to
9 the State’s Complaint as November 21, 2017 (Dkt. 80);

10 **WHEREAS**, Relator filed his First Amended Complaint (“Relator’s Complaint”) with the
11 Court in this action on September 28, 2017 (Dkt. 79);

12 **WHEREAS**, Defendant has agreed to waive formal service of Relator’s Complaint and
13 summons upon it pursuant to Fed. R. Civ. P. 4(d) on November 20, 2017, establishing
14 Defendant’s deadline to respond to the Relator’s Complaint as January 19, 2018 (Dkt. 91);

15 **WHEREAS**, the Parties agree for the purposes of efficiency and judicial economy that
16 good cause exists for Defendant’s motions to dismiss the State’s Complaint and Relator’s
17 Complaint to be consolidated;

18 **WHEREAS**, pursuant to Local Rule 144(a), the Parties may stipulate to one initial 28-day
19 extension of time for Defendant to respond to the State’s Complaint, but must obtain the Court’s
20 approval for any stipulated extension beyond 28 days;

21 **WHEREAS**, Defendant has made no prior request or stipulation to extend its deadline to
22 file its response to the State’s Complaint;

23 **WHEREAS**, none of the Parties is waiving any defense, right or claim by entering into
24 this stipulation.

25 ///

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOINT STIPULATION

THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:

- 1. Pursuant to Local Rule 144(a), Defendant may file a motion to dismiss the State’s Complaint on December 19, 2018;
- 2. Upon Court approval, stipulation no. 1 is superseded, and Defendant shall file a consolidated motion to dismiss both the State’s Complaint and Relator’s Complaint (“Consolidated Motion”) on January 19, 2018;
- 3. The State and Relator may file separate oppositions to the Consolidated Motion, and Defendant may file separate replies.

IT IS SO STIPULATED.

Dated: November 20, 2017

XAVIER BECERRA
Attorney General of the State of California

By /s/ Emmanuel R. Salazar
Emmanuel R. Salazar
Deputy Attorney General

Attorneys for STATE OF CALIFORNIA

Dated: November 20, 2017

WATERS & KRAUS

By /s/ William Paul Lawrence, II
William Paul Lawrence, II

Attorneys for *Qui Tam* Plaintiff
LOYD F. SCHMUCKLEY

Dated: November 20, 2017

MORGAN, LEWIS & BOCKIUS LLP

By /s/ Tera M. Heintz
Tera M. Heintz

Attorneys for Defendant
RITE AID CORPORATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Based upon the stipulated agreement of the Parties, and the Court finding good cause therefor pursuant to Local Rule 144(a),

IT IS HEREBY ORDERED THAT:

Defendant shall file a Consolidated Motion to Dismiss both the State of California's Complaint and Loyd F. Schmuckley's First Amended Complaint on January 19, 2018. Plaintiffs State of California and Loyd F. Schmuckley may file separate oppositions to the Consolidated Motion, and Defendant may file separate replies.

IT IS SO ORDERED.

DATED: November 29, 2017.


UNITED STATES DISTRICT JUDGE