

1 (Counsel of record listed on next page)

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CAREN WINEGARNER, an individual

Plaintiff,

vs.

RITE AID CORPORATION, and DOES 1
through 50, inclusive,

Defendants

No. 2:16-CV-01028 JAM-EFB

**STIPULATION TO VACATE MINUTE
ORDER OF 01/17/18 (ECF 30) AND
REINSTATE HEARING DATE ON RITE
AID'S MOTION FOR PARTIAL SUMMARY
JUDGMENT OR, ALTERNATIVELY, SET
HEARING FOR NEXT AVAILABLE DATE**

Judge: Hon. John A. Mendez

Complaint filed: February 2, 2016

Trial date: None set

1 MATTHEW RIGHETTI (Cal. State Bar No. 121012)
JOHN GLUGOSKI (Cal. State Bar No. 191551)
2 MICHAEL RIGHETTI (Cal. State Bar No. 258541)
RIGHETTI GLUGOSKI, P.C.
3 456 Montgomery Street, Suite 1400
San Francisco, California 94104
4 Telephone: (415) 983-0900
Facsimile: (415) 397-9005
5 matt@righettilaw.com
john@righettilaw.com
6 mike@righettilaw.com

7 Attorneys for Plaintiff

8 JEFFREY D. WOHL (Cal. State Bar No. 096838)
JUSTIN M. SCOTT (Cal. State Bar No. 302502)
9 W. TUCKER PAGE (Cal. State Bar No. 306728)
PAUL HASTINGS LLP
10 101 California Street, 48th Floor
San Francisco, California 94111
11 Telephone: (415) 856-7000
Facsimile: (415) 856-7100
12 jeffwohl@paulhastings.com
justinscott@paulhastings.com
13 tuckerpage@paulhastings.com

14 Attorneys for Defendant
Rite Aid Corporation
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Plaintiff Caren Winegarner and defendant Rite Aid Corporation (“Rite Aid”) hereby stipulate
2 and respectfully request that the Court vacate its Minute Order of January 17, 2018 (ECF 30) and
3 reinstate the January 30, 2018, hearing date on Rite Aid’s motion for partial summary judgment
4 (ECF 26). The parties did meet and confer on the issues in the motion prior to it being filed, and believe
5 that the Court’s ruling on Rite Aid’s motion likely will expedite resolution of this action and four other
6 related actions (involving five plaintiffs) before the Court, as well as prevent future motion practice in
7 those related actions. In the event that January 30, 2018, is no longer available for the hearing, the
8 parties respectfully request that the Court hear Rite Aid’s motion on the next available hearing date.
9 Rite Aid apologizes to the Court for omitting the required language regarding the pre-motion conference
10 in its notice of motion.

11 In support of their request, the parties stipulate as follows:

12 1. Before Rite Aid filed its motion, the parties met and conferred regarding Rite Aid’s
13 position that *Fenley v. Rite Aid Corp.*, Santa Clara Superior Court No. 1-12-CV-2229127, did not toll
14 the statute of limitations on Store Manager misclassification claims filed by plaintiffs’ counsel,
15 including this action. This included multiple substantive conversations in October 2017 and November
16 2017 and a notification by Rite Aid’s counsel that Rite Aid would be filing a motion on the issue before
17 this Court, and the anticipated hearing date.*

18 2. On November 14, 2017, Rite Aid filed its notice of motion for partial summary judgment,
19 memorandum in support, statement of undisputed facts, and supporting declarations. (ECF 26.) Rite
20 Aid noticed the motion for hearing on January 30, 2018.

21 3. On January 16, 2018, plaintiff filed her opposition, response to Rite Aid’s statement of
22 undisputed facts and plaintiff’s statement of disputed facts, and supporting declarations. (ECF 29.)

23 4. On January 17, 2018, the Court issued a Minute Order (ECF 30) dismissing Rite Aid’s
24 motion without prejudice and vacating the noticed January 30, 2018, hearing, due to Rite Aid’s non-
25 compliance with the Court’s directive in its May 18, 2016, Order (ECF 7-2) that the moving party
26

27 * Regarding the secondary issue in Rite Aid’s motion regarding whether plaintiffs may assert
28 claims for penalties for meal- and rest-period premiums through California Business and Professions
Code 17200, the parties first litigated and conferred regarding this issue in approximately October 2016.

1 (Counsel of record listed on next page)
2
3
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 CAREN WINEGARNER, an individual

12 Plaintiff,

13 vs.

14 RITE AID CORPORATION, and DOES 1
15 through 50, inclusive,

16 Defendants

No. 2:16-CV-01028 JAM-EFB

**ORDER GRANTING STIPULATION TO
VACATE MINUTE ORDER OF 01/17/18 (ECF
30) AND REINSTATE HEARING DATE ON
RITE AID'S MOTION FOR PARTIAL
SUMMARY JUDGMENT OR,
ALTERNATIVELY, SET HEARING FOR
NEXT AVAILABLE DATE**

Judge: Hon. John A. Mendez

Complaint filed: February 2, 2016

Trial date: None set
17
18
19
20
21
22
23
24
25
26
27
28

ORDER GRANTING STIPULATION TO VACATE
ORDER, REINSTATE HEARING DATE
U.S.D.C., E.D. Cal., No. 2:13-CV-02439 JAM-EFB

1 MATTHEW RIGHETTI (Cal. State Bar No. 121012)
JOHN GLUGOSKI (Cal. State Bar No. 191551)
2 MICHAEL RIGHETTI (Cal. State Bar No. 258541)
RIGHETTI GLUGOSKI, P.C.
3 456 Montgomery Street, Suite 1400
San Francisco, California 94104
4 Telephone: (415) 983-0900
Facsimile: (415) 397-9005
5 matt@righettilaw.com
john@righettilaw.com
6 mike@righettilaw.com

7 Attorneys for Plaintiff

8
9 JEFFREY D. WOHL (Cal. State Bar No. 096838)
JUSTIN M. SCOTT (Cal. State Bar No. 302502)
W. TUCKER PAGE (Cal. State Bar No. 306728)
10 PAUL HASTINGS LLP
101 California Street, 48th Floor
11 San Francisco, California 94111
Telephone: (415) 856-7000
12 Facsimile: (415) 856-7100
jeffwohl@paulhastings.com
13 justinscott@paulhastings.com
tuckerpage@paulhastings.com

14 Attorneys for Defendant
15 Rite Aid Corporation

1 On the stipulation of the parties, and good cause appearing therefor,

2 IT IS ORDERED that the Court's January 17, 2018, Minute Order (ECF 30) be and hereby is
3 VACATED.

4 IT IS FURTHER ORDERED that the Court will hold a hearing on Rite Aid's motion for partial
5 summary judgment (ECF 26) on February 13, 2018 at 1:30 p.m. Rite Aid's reply is due fourteen (14)
6 days prior to the hearing.

7
8 Dated: January 19, 2018.

9
10
11 /s/ JOHN A. MENDEZ
12 John A. Mendez
13 United States District Court Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28