

1 ROBERT C. BOWMAN, JR. (SBN 232388)  
 2 Robert@bowmanandassoc.com  
 3 LAW OFFICES OF BOWMAN & ASSOCIATES  
 4 3230 Ramos Circle  
 5 Sacramento, CA 95827  
 6 Tel.: (916) 923-2800  
 7 Fax: (916) 923-2828

8 Attorney for Plaintiff  
 9 PETER TENERELLI

10 JONATHAN A. KLEIN (SBN 162071)  
 11 jaklein@khiplaw.com  
 12 SWETA H. PATEL (SBN 247115)  
 13 spatel@khiplaw.com  
 14 ANNE F. MARCHANT (SBN 154356)  
 15 amarchant@khiplaw.com  
 16 KLEIN, HOCKEL, IEZZA & PATEL P.C.  
 17 455 Market Street, Suite 1480  
 18 San Francisco, CA 94105  
 19 Tel.: (415) 951-0535  
 20 Fax: (415) 391-7808

21 Attorneys for Defendant  
 22 RITE AID HDQTRS. CORP. (erroneously sued as RITE AID CORPORATION)

23 UNITED STATES DISTRICT COURT  
 24 EASTERN DISTRICT OF CALIFORNIA

<p>25 PETER TENERELLI, an individual,          26          27 Plaintiff,          28          vs.          RITE AID CORPORATION; and          DOES 1 through 100, inclusive,          Defendants.</p>	<p>) Case No.: 2:17-CV-01011-JAM-EFB          )          ) <b>JOINT STIPULATIONS WITH</b>          ) <b>RESPECT TO DEFENDANT’S</b>          ) <b>MOTION TO COMPEL; REQUEST</b>          ) <b>FOR TELEPHONIC</b>          ) <b>CONFERENCE WITH</b>          ) <b>MAGISTRATE JUDGE; AND</b>          ) <b>PROPOSED ORDER</b>          )          ) Hearing Date: August 22, 2018          ) Time: 10:00 a.m.          ) Courtroom: 8</p>
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JOINT STIPULATIONS WITH RESPECT TO DEFENDANT’S MOTION TO COMPEL;  
 REQUEST FOR TELEPHONIC CONFERENCE WITH MAGISTRATE JUDGE; AND  
 PROPOSED ORDER

1           On July 6, 2018, defendant Rite Aid Hdqtrs. Corp. ("Rite Aid"), filed a  
2 discovery motion seeking an order compelling plaintiff Peter Tenerelli ("Plaintiff")  
3 to search for and produce all relevant and requested documents in his possession,  
4 custody or control, including electronically stored information and data;  
5 compelling Plaintiff to produce the original documents requested in the Amended  
6 Notice of Second Day of Deposition of Plaintiff Peter Tenerelli and Request for  
7 Production of Documents at Deposition; compelling Plaintiff to respond only to the  
8 specific questions asked of him at deposition; ordering Plaintiff's counsel to limit  
9 his objections as required by Rule 30(c)(2); ordering Plaintiff's counsel to wear his  
10 microphone during all videotaped depositions in this matter; and ordering  
11 sanctions against Plaintiff and his counsel for impeding and prolonging discovery  
12 in this matter.

13           The parties have met and conferred in an effort to resolve their differences,  
14 and are pleased to report the following stipulations:

15           1.     Plaintiff's counsel has instructed Plaintiff regarding his discovery  
16 obligations under the Federal Rules of Civil Procedure and Plaintiff has searched  
17 his files, computers, thumb drives and family member's computers and has agreed  
18 to produce all Rite Aid documents and documents relevant to this action, including  
19 electronically stored information, emails and data, not previously produced in this  
20 matter. Plaintiff has executed a declaration indicating that he has conducted a  
21 thorough search of all of his files, computers, drives, etc. and has agreed to provide  
22 a further declaration confirming that he has produced to Rite Aid everything  
23 related to this case in his possession, custody or control. A true and correct copy of  
24 Mr. Tenerelli's July 17, 2018 Declaration is attached hereto as Exhibit A.

25           2.     On July 12, 2018 and July 18, 2018, Plaintiff produced to Rite Aid the  
26 original documents requested in the Amended Notice of Second Day of Deposition  
27 of Plaintiff Peter Tenerelli and Request for Production of Documents at  
28 Deposition.

1           3.       With respect to the request for an order compelling Plaintiff to  
2 respond to the specific questions asked of him at deposition, the parties seek a  
3 telephonic conference call between Magistrate Judge Edmund Brennan, Plaintiff  
4 Peter Tenerelli, counsel Robert Bowman for Plaintiff, and Jonathan Allan Klein for  
5 Rite Aid.

6           4.       Defendant, without the agreement of Plaintiff and his counsel, wishes  
7 the Court to be informed that Mr. Klein repeatedly instructed Plaintiff during his  
8 March 5, 2018 deposition and May 21, 2018 deposition of the necessity to answer  
9 only the questions asked and not provide a non-responsive narrative, Plaintiff  
10 repeatedly evaded or ignored this instruction. Examples of this conduct are  
11 reflected in the following portions of Plaintiff's depositions: 36:3-42:8; 47:19-48:8;  
12 54:22-60:19; 125:7-126:4; 130:21-132:3; 134:1-135:8; 155:5-156:9; 159:20-160:9;  
13 163:10-24; 213:3-215:8; 291:17-292:10. Electronic copies of the deposition  
14 transcripts will be emailed to the Magistrate Judge and all counsel, as set forth in  
15 Local Rule 133(j). Defendant believes that this information is relevant to the  
16 disputed discovery issues, will assist the Magistrate Judge to understand the issues,  
17 and assist the parties to streamline the deposition process.

18           5.       Both Mr. Bowman and Mr. Klein ask that Magistrate Judge Brennan  
19 speak with Plaintiff Tenerelli via telephone to provide instruction to Plaintiff that  
20 he is to respond to the questions asked during his deposition and that he must  
21 respond only to the question posed and not include non-responsive narrative  
22 testimony. In order to ensure that Plaintiff Tenerelli complies with these  
23 instructions moving forward at the third session of his deposition, Rite Aid  
24 requests that the Magistrate Judge instruct Plaintiff Tenerelli that if he fails to  
25 comply with the instructions, he will face sanctions and Mr. Bowman requests that  
26 the Magistrate Judge instruct Plaintiff Tenerelli that if he fails to comply with the  
27 instructions, he may face sanctions. The parties seek the Magistrate Judge's  
28 suggestions as to mechanisms to ensure that the Plaintiff Tenerelli follows the

1 court's instructions during his subsequent deposition testimony, such as the use of  
2 a discovery referee during the deposition, to be paid for by Plaintiff, if he fails to  
3 comply with the court's order to respond to the questions asked and to refrain from  
4 responding with non-responsive narrative.

5 6. Counsel agree to limit their objections during depositions as set forth  
6 in Rule 30(c)(2).

7 7. Counsel agree to use a microphone at all videotaped depositions in  
8 this matter.

9 8. Counsel agree to cooperate to set a mutually convenient date and time  
10 for the deposition of Mr. Tenerelli, which shall be held at a location within 100  
11 miles of the courthouse.

12 9. Counsel will coordinate with the court clerk to determine a mutually  
13 convenient time for the conference call referenced in Paragraphs 3 and 5.

14 Based on the forgoing stipulation, Rite Aid will withdraw the pending  
15 motion to compel upon Plaintiff's participation in the above-referenced conference  
16 call.

17 DATED: August 14, 2018

LAW OFFICES OF BOWMAN & ASSOCIATES

18 /s/ Robert C. Bowman Jr.  
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ROBERT C. BOWMAN JR.

Attorney for Plaintiff

PETER TENERELLI

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22  
23 DATED: August 14, 2018

KLEIN, HOCKEL, IEZZA & PATEL P.C.

24 /s/ Anne F. Marchant  
25

26 \_\_\_\_\_  
JONATHAN ALLAN KLEIN

SWETA H. PATEL

ANNE F. MARCHANT

Attorneys for Defendant

RITE AID HDQTRS. CORP.  
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**ORDER**

Having read the above joint stipulations regarding discovery dispute, and good cause appearing, it is hereby ordered that the above stipulations are adopted and all parties must comply with the stipulations as set forth herein. Counsel Robert Bowman, counsel Jonathan Allan Klein, and Plaintiff Peter Tenerelli shall participate in a telephonic conference call with the undersigned on August 22, 2018 at 10:00 a.m. All participants shall connect to the conference system no later than 10:00 a.m. by calling (888) 808-6929, using access code 8238380 plus # and security code 4223 plus #. Further, the August 22, 2018 hearing on defendant's motion to compel (ECF No. 10) is vacated.

IT IS SO ORDERED.

Dated: August 14, 2018.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE