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14 Attorneys for Defendant
 15 Rite Aid Corporation

16
 17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19
 20 PRAG TIERNO, individually and on
 behalf of all others similarly-situated,

21 Plaintiffs,

22 vs.

23 RITE AID CORPORATION, and DOES
 24 1 through 25, inclusive,

25 Defendants.

No. C05-02520-TEH

**STIPULATION AND PROPOSED ORDER
 TO CHANGE BRIEFING HEARING AND
 BRIEFING DATES FOR PLAINTIFF'S
 MOTION FOR PARTIAL SUMMARY
 JUDGMENT/SUMMARY ADJUDICATION
 OF ISSUES**

[Civ. L. R. 6-1, 6-2]

1 **STIPULATION**

2 Plaintiff Prag Tierno and defendant Rite Aid Corporation, through their respective counsel,
3 stipulate as follows:

4 1. On January 12, 2009, plaintiff filed his Motion for Partial Summary Judgment/Summary
5 Adjudication of Issues (Docket No. 195), and noticed it for hearing on February 23, 2009, at 10:00 a.m.

6 2. The parties are engaged in discussions about certain evidentiary issues raised by the
7 motion which, if not resolved by the parties, may lead to a request by defendant for relief from this
8 Court.

9 3. Due to a previously-planned absence from the office, lead counsel for plaintiff will not be
10 available to pursue and conclude those discussions until on or after January 20, 2009.

11 4. In order to facilitate those discussions and avoid the difficulty that could result absent an
12 adjustment of the briefing and hearing schedule on plaintiff's motion while those discussions are
13 pending, the parties agree and hereby request that the Court continue the hearing on plaintiff's motion to
14 March 2, 2009; and make the opposition and reply briefing on the motion due in accordance with Local
15 Rule 7-3 based on the new hearing date.

16 5. This stipulation is entered into without prejudice to any position that may be asserted by
17 either party concerning evidentiary issues raised by plaintiff's motion and the final scheduling of the
18 briefing and hearing on plaintiff's motion, as may be decided on a future application submitted to the
19 Court.

20 Dated: January 15, 2009.

21 SCOTT EDWARD COLE
22 MATTHEW R. BAINER
23 EILEEN M. BISSEN
24 SCOTT COLE & ASSOCIATES, APC

25 By: /s/ Matthew R. Bainer

26 Matthew R. Bainer
27 Attorneys for Representative Plaintiff
28 and the Plaintiff Class

1 Dated: January 15, 2009.

2 JEFFREY D. WOHL
3 JOHN C. POST
4 RISHI N. SHARMA
5 REGAN A.W. HERALD
6 PAUL, HASTINGS, JANOFSKY & WALKER LLP

7 By: /s/ Jeffrey D. Wohl

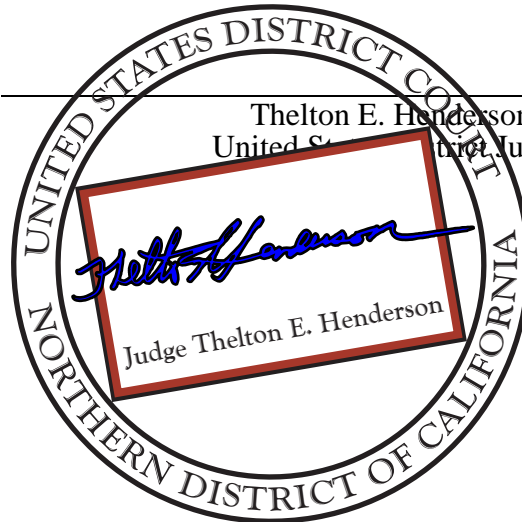
8 Jeffrey D. Wohl
9 Attorneys for Defendant
10 Rite Aid Corporation
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ORDER

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

IT IS ORDERED that the hearing on plaintiff Prag Tierno's Motion for Partial Summary Judgment/Summary Adjudication of Issues (Docket No. 195) is continued to March 2, 2009. The opposition and reply briefing on the motion will be due in accordance with the Court's Local Rule 7-3 based on the new hearing date.

Dated: 01/16, 2009.



Thelton E. Henderson
United States District Judge