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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BRYON STAFFORD, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

RITE AID CORPORATION,

Defendant.

Lead Case No.: 3:17-cv-1340-TWR-AHG  
Consolidated with: 3:18-cv-152-TWR-AHG

**ORDER:**

**(1) DENYING WITHOUT  
PREJUDICE MOTION FOR ENTRY  
OF ORDER CONCERNING  
DISCOVERY AND OTHER  
PRETRIAL MATTERS;**

**(2) SETTING STATUS  
CONFERENCE; and**

**(3) SETTING MANDATORY  
SETTLEMENT CONFERENCE**

**[ECF No. 286]**

1 Before the Court is the parties' Joint Motion for Entry of Stipulation and Proposed  
2 Order Concerning Discovery and Other Pretrial Matters. ECF No. 286. In the Joint Motion,  
3 the parties request that the Court dismiss without prejudice Plaintiff Robert Josten and the  
4 operative Josten Complaint (ECF No. 146), permit a new additional plaintiff to file a  
5 Motion for Intervention by May 1, 2023, and extend the deadlines in the case schedule by  
6 approximately four months each. ECF No. 286 at 4. The parties seek such a lengthy  
7 extension of the case schedule not only to conduct discovery regarding the anticipated new  
8 plaintiff, but also to complete other outstanding discovery, including class-wide discovery,  
9 depositions and/or document discovery of third parties, and additional discovery regarding  
10 Defendant Rite Aid's transactional data. *Id.* at 3-4.

11 Under Fed. R. Civ. P. 16(b)(4), "[a] schedule may be modified only for good cause  
12 and with the judge's consent." "Good cause" is a non-rigorous standard that has been  
13 construed broadly across procedural and statutory contexts. *Ahanchian v. Xenon Pictures,*  
14 *Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010). The good cause standard focuses on the diligence  
15 of the party seeking to amend the scheduling order and the reasons for seeking  
16 modification. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).  
17 "[T]he court may modify the schedule on a showing of good cause if it cannot reasonably  
18 be met despite the diligence of the party seeking the extension." Fed. R. Civ. P. 16, advisory  
19 committee's notes to 1983 amendment.

20 Here, although the Court recognizes that the requested dismissal of Plaintiff Josten  
21 and anticipated motion to intervene by a new plaintiff may require some additional  
22 discovery, the Court finds the parties have not shown good cause to grant a four-month  
23 carte-blanche extension of the case schedule. In particular, the parties have not established  
24 that they have acted diligently to complete class-wide discovery, third-party deposition and  
25 document discovery, and discovery regarding Rite Aid's transactional data in the seven  
26 months since the stay was lifted in this case (or in the five months since the Court issued  
27 the operative Scheduling Order).

28 Given the age of the case and its interest in efficient docket management, the Court

1 will require the parties to provide a more detailed explanation of what discovery remains  
2 to be completed before the parties are able to brief the class certification motion, and will  
3 set deadlines and constraints to ensure that such discovery is completed diligently and in a  
4 streamlined manner. To that end, the Court will hold a Status Conference on  
5 **April 20, 2023** at **2:00 p.m.** before Magistrate Judge Allison H. Goddard. The Status  
6 Conference shall take place via videoconference using the Court's official Zoom account.  
7 Chambers staff will circulate the Zoom invitation to all counsel of record by April 19, 2023.

8 In the meantime, the parties' Joint Motion is **DENIED without prejudice**.<sup>1</sup> The  
9 Court will discuss an appropriate scope and timeline for any remaining discovery with the  
10 parties during the Status Conference.

11 Additionally, upon review of the record, the Court **SETS** a Mandatory Settlement  
12 Conference for **May 26, 2023** at **9:30 a.m.** before Magistrate Judge Allison H. Goddard.  
13 In preparation for the MSC, Plaintiffs must serve on Defendant a **written** settlement  
14 proposal, which must include a specific demand amount, no later than **May 5, 2023**. The  
15 defendant must respond to the plaintiff **in writing** with a specific offer amount prior to the  
16 Meet and Confer discussion. The parties should not file or otherwise copy the Court on  
17 these exchanges. Rather, the parties must include their written settlement proposals in their  
18 respective Settlement Conference Statements to the Court. Counsel for the parties must  
19 meet and confer in person or by phone no later than **May 12, 2023**.

20 Each party must prepare a Settlement Conference Statement, which will be served  
21 on opposing counsel and lodged with the Court no later than **May 19, 2023**. The Statement  
22 must be lodged in .pdf format via email to [efile\\_goddard@casd.uscourts.gov](mailto:efile_goddard@casd.uscourts.gov) (not filed).  
23 The substance of the Settlement Conference Statement must comply fully with Judge  
24 Goddard's Mandatory Settlement Conference Rules (located at  
25 \_\_\_\_\_  
26 \_\_\_\_\_

27 <sup>1</sup> The undersigned notes that this Order is issued upon consultation with the presiding  
28 District Judge, who will ultimately decide the parties' requests related to the dismissal of  
Plaintiff Josten and the anticipated motion to intervene by a new additional plaintiff.

1 <https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settleme>  
2 [nt%20Conference%20Rules.pdf](https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settleme)). Each party may also prepare an **optional** Confidential  
3 Settlement Letter for the Court’s review only, to be lodged with the Court no later than  
4 **May 19, 2023**. The Letter must be lodged in .pdf format via email to  
5 [efile\\_goddard@casd.uscourts.gov](mailto:efile_goddard@casd.uscourts.gov) (not filed). Should a party choose to prepare a Letter,  
6 the substance of the Settlement Conference Letter must comply fully with Judge Goddard’s  
7 Mandatory Settlement Conference Rules. **All parties are ordered to read and to fully**  
8 **comply with the Chambers Rules and Mandatory Settlement Conference Rules of**  
9 **Magistrate Judge Allison H. Goddard.**<sup>2</sup>

10 Like the Status Conference, the MSC shall take place via videoconference for all  
11 attendees, using the Court’s official Zoom account. In addition to complying with Judge  
12 Goddard’s MSC Rules, the parties must adhere to the following mandatory procedures and  
13 deadlines for the videoconference:

14 1. The Court will use its official Zoom video conferencing account to hold the  
15 Settlement Conference. **If you are unfamiliar with Zoom:** Zoom is available on  
16 computers through a download on the Zoom website (<https://zoom.us/meetings>) or on  
17 mobile devices through the installation of a free app.<sup>3</sup> Joining a Zoom conference does not  
18 require creating a Zoom account, but it does require downloading the .exe file (if using a  
19 computer) or the app (if using a mobile device). Participants are encouraged to create an  
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22 <sup>2</sup> The Court notes that Judge Goddard’s MSC Rules require the personal attendance of all  
23 parties, party representatives, including claims adjusters for insured defendants, and the  
24 primary attorney(s) responsible for the litigation at the conference. AHG.MSC.R. ¶ 3.  
25 Named plaintiffs are included in this requirement and are not excused from attendance. If  
26 Plaintiffs’ counsel wish to request the excusal of the named plaintiffs from attending the  
MSC, they may do so by joint motion or by email (with opposing counsel copied) at  
[efile\\_Goddard@casd.uscourts.gov](mailto:efile_Goddard@casd.uscourts.gov).

27 <sup>3</sup> If possible, participants are encouraged to use laptops or desktop computers for the  
28 video conference, rather than mobile devices.

1 account, install Zoom and familiarize themselves with Zoom in advance of the Settlement  
2 Conference.<sup>4</sup> There is a cost-free option for creating a Zoom account.

3 2. No later than **May 19, 2023**, counsel for each party shall send an email to the  
4 Court at [efile\\_goddard@casd.uscourts.gov](mailto:efile_goddard@casd.uscourts.gov) containing the following:

- 5 a. The **name and title of each participant**, including all parties and party  
6 representatives with full settlement authority, claims adjusters for  
7 insured defendants, and the primary attorney(s) responsible for the  
8 litigation;
- 9 b. An **email address for each participant** to receive the Zoom video  
10 conference invitation;
- 11 c. A **telephone number where each participant** may be reached; and
- 12 d. A **cell phone number for that party's preferred point of**  
13 **contact** (and the name of the individual whose cell phone it is) for the  
14 Court to use during the conference to alert counsel via text message that  
15 the Court will soon return to that party's Breakout Room, to avoid any  
16 unexpected interruptions of confidential discussions.

17 3. At least one day before the Settlement Conference, the Court will email each  
18 identified participant an invitation to join a Zoom video conference. If possible,  
19 participants are encouraged to use laptops or desktop computers for the video conference,  
20 as mobile devices often offer inferior performance. Participants shall join the video  
21 conference by following the ZoomGov Meeting hyperlink in the invitation. **Participants**  
22 **who do not have Zoom already installed on their device when they click on the**  
23 **ZoomGov Meeting hyperlink will be prompted to download and install Zoom before**  
24 **proceeding.** Zoom may then prompt participants to enter the password included in the  
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27 <sup>4</sup> For help getting started with Zoom, visit: [https://support.zoom.us/hc/en-](https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started)  
28 [us/categories/200101697-Getting-Started](https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started)

1 invitation.

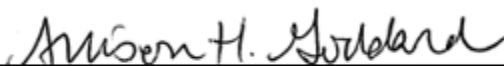
2 4. Zoom’s functionalities will allow the Court to conduct the Settlement  
3 Conference as it ordinarily would conduct an in-person one. The Court will divide  
4 participants into separate, confidential sessions, which Zoom calls Breakout Rooms. In a  
5 Breakout Room, the Court will be able to communicate with participants from a single  
6 party in confidence. Breakout Rooms will also allow parties and counsel to communicate  
7 confidentially without the Court.

8 5. All participants shall display the same level of professionalism during the  
9 Settlement Conference and be prepared to devote their full attention to the Settlement  
10 Conference as if they were attending in person (e.g., cannot be driving or in a car while  
11 speaking to the Court), and should be seated indoors and prepared to appear on camera.  
12 Because Zoom may quickly deplete the battery of a participant’s device, each participant  
13 should ensure that their device is plugged in or that a charging cable is readily available  
14 during the video conference.

15 6. Counsel are advised that although the Settlement Conference will take place  
16 on Zoom, all participants shall appear and conduct themselves as if it is proceeding in a  
17 courtroom, including by dressing in appropriate courtroom attire.

18 **IT IS SO ORDERED.**

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20 Dated: April 12, 2023

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23 Honorable Allison H. Goddard  
24 United States Magistrate Judge  
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