

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**KYRA MOORE, on behalf of herself and  
others similarly situated,  
Plaintiff,**

**CIVIL ACTION**

**v.**

**NO. 13-1515**

**RITE AID HDQTRS CORP., doing business  
as "RITE AID CORPORATION,"  
Defendant.**

**ORDER**

**AND NOW**, this 20th day of December, 2017, upon consideration of plaintiff's Motion for Class Certification (Doc. No. 54, filed August 2, 2016), plaintiff's Praecipe to Substitute the Proposed Order to Plaintiff's Motion for Class Certification (Doc. No. 56, filed August 5, 2016), defendant's Memorandum in Opposition to Plaintiff's Motion for Class Certification (Doc. Nos. 57-58, filed September 9 and 12, 2016), plaintiff's Reply in Further Support of Her Motion for Class Certification (Doc. No. 60, filed September 30, 2016), defendant's Sur-Reply in Further Opposition to Plaintiff's Motion for Class Certification (Doc. No. 64, filed October 14, 2016), defendant's Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) or, in the Alternative, for Summary Judgment (Doc. Nos. 65, 67, filed December 6-7, 2016), defendant's Statement of Undisputed Facts in Support of Its Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) or, in the Alternative, for Summary Judgment (Doc. No. 66, filed December 7, 2016), plaintiff's Response in Opposition to Defendant Rite Aid Hdqtrs. Corp.'s Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) or, in the Alternative, for Summary Judgment (Doc. No. 69, filed December 23, 2016), plaintiff's Response to Defendant Rite Aid's Statement of Undisputed Facts in Support of Its Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) or, in the Alternative, for Summary Judgment (Doc. No. 70, filed December 23, 2016), defendant's Reply Memorandum in Further Support of

Its Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1), or in the Alternative, for Summary Judgment (Doc. Nos. 71-72, filed January 5-6, 2017), and plaintiff's Notice of Supplemental Authority in Support of Plaintiff's Motion to Certify Class and in Support of Plaintiff's Opposition to Defendant's Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) or, in the Alternative, for Summary Judgment (Doc. No. 74, filed August 16, 2017), for the reasons stated in the accompanying Memorandum dated December 20, 2017, **IT IS ORDERED** as follows:

1. That part of defendant's Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) seeking to dismiss named plaintiff Kyra Moore's individual claims in Count I of the First Amended Class Action Complaint is **GRANTED** and those claims are **DISMISSED WITH PREJUDICE**;

2. That part of defendant's Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) seeking to dismiss the claims of the putative class in Count I of the First Amended Class Action Complaint is **GRANTED** and those claims are **DISMISSED WITHOUT PREJUDICE**;

3. Defendant's alternative Motion for Summary Judgment is **DENIED** as **MOOT**; and,

4. Plaintiff's Motion for Class Certification is **DENIED**;

**IT IS FURTHER ORDERED** that a telephone conference for the purpose of scheduling further proceedings will be conducted in due course.

**BY THE COURT:**

/s/ **Hon. Jan E. DuBois**

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**DuBOIS, JAN E., J.**