

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 9:14-cv-80693-WJZ**

WENDELL SMITH, individually and on  
behalf of all others similarly situated,

*Plaintiff,*

v.

IS3, INC., a Florida corporation,

*Defendant.*

\_\_\_\_\_ /

**STIPULATION OF DISMISSAL PURSUANT TO FED. R. CIV. P. 41**

Plaintiff Wendell Smith (“Smith” or “Plaintiff”) and Defendant iS3, Inc. (“Defendant”) (together, the “Parties”), by and through their undersigned counsel, hereby stipulate and agree, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), to the dismissal *with prejudice* of Smith’s individual claims against Defendant and *without prejudice* of the putative class’s claims.

In support of the instant stipulation, the Parties state as follows:

WHEREAS, on May 26, 2014, Plaintiff filed his class action complaint (Dkt. 1);

WHEREAS, on April 9, 2015, Defendant answered Plaintiff’s complaint (Dkt. 25);

WHEREAS, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties may stipulate to the dismissal of this action without a Court order;

WHEREAS, the Parties have conferred and agreed to stipulate to the dismissal *with prejudice* of Smith’s individual claims against Defendant in this action;

WHEREAS, the Parties have further conferred and agreed to stipulate to the dismissal *without prejudice* of the putative class’s claims against Defendant in this action;

WHEREAS, the Parties shall each bear their own attorneys’ fees and expenses incurred



**IS3, INC.,**

Dated: March 15, 2016

By:           s/ Joseph Valdivia            
One of its Attorneys

Jonathan Vine  
Jonathan.vine@csklegal.com  
Rachel K. Beige  
Rachel.beige@csklegal.com  
Joseph F. Valdivia  
Joseph.Valdivia@csklegal.com  
COLE, SCOTT & KISSANE, P.A.  
222 Lakeview Avenue, Suite 120  
West Palm Beach, Florida 33401  
Tel: 561.383.9203  
Fax: 561.683.8977

**CERTIFICATE OF SERVICE**

I, Scott D. Owens, an attorney, certify that on March 15, 2016I served the above and foregoing *Stipulation of Dismissal Pursuant to Fed. R. Civ. P. 41* by causing true and accurate copies of such paper to be transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

s/ Scott D. Owens  
Scott D. Owens, Esq.