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18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

20 MILO ILLICH, individually and on
21 behalf of all others similarly situated,

22 *Plaintiff,*

23 v.

24 INSTANT CHECKMATE, INC., a
25 Delaware corporation,

26 *Defendant.*

Case No. 3:14-cv-3026-DMS-KSC

**PARTIES' JOINT MOTION TO
VOLUNTARILY DISMISS
PURSUANT TO
FED. R. CIV. P. 41**

1 Plaintiff Milo Illich (“Plaintiff” or “Illich”) and Defendant Instant Checkmate,
2 Inc. (“Defendant”) (collectively, the “Parties”), by and through their undersigned
3 counsel and pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), hereby
4 respectfully request that the Court dismiss *with prejudice* Illich’s individual claims
5 against Defendant in this action and *without prejudice* the claims of the putative
6 class. Good cause exists to grant this joint motion for the following reasons:

7 1. On December 30, 2014, Plaintiff filed the instant action. (Dkt. No. 1.)

8 2. Federal Rule of Civil Procedure 41(a)(1)(A)(ii) provides that parties
9 may stipulate to the dismissal of an action without a court order.

10 3. The Parties have conferred and agreed to stipulate to the dismissal *with*
11 *prejudice* of Illich’s individual claims against Defendant in this action.

12 4. The Parties have further conferred and agreed to stipulate to the
13 dismissal *without prejudice* of the putative class’s claims against Defendant in this
14 action.

15 5. Except as they have otherwise agreed, the Parties shall each bear their
16 own attorneys’ fees and expenses incurred in any way related to the litigation of this
17 action.

18 6. Based on the foregoing, good cause exists to grant the instant motion,
19 and the relief requested herein is not sought for any improper purpose.

20 **WHEREFORE**, the Parties respectfully request that the Court enter an Order
21 (i) dismissing Plaintiff Illich’s individual claims against Defendant in this action
22 *with prejudice*; (ii) dismissing the claims of the putative class in this action *without*
23 *prejudice*; and (iii) except as otherwise agreed, ordering each Party to bear its own
24 attorneys’ fees and expenses incurred in any way related to the litigation of this
25 action.

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Respectfully submitted,

MILO ILLICH,

Dated: April 3, 2015

By: /s/ Samuel M. Lasser
One of Plaintiff's Attorneys

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Attorneys for Plaintiff and the Putative Class

INSTANT CHECKMATE, INC.,

Dated: April 3, 2015

By: /s/ Ari N. Rothman
One of its Attorneys

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SIGNATURE CERTIFICATION

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to Ari N. Rothman, counsel for Defendant Instant CheckMate, Inc., and that Mr. Rothman has authorized me to affix his electronic signature to this document.

/s/ Samuel M. Lasser

CERTIFICATE OF SERVICE

I, Samuel M. Lasser, an attorney, hereby certify that on April 3, 2015, I served the above and foregoing *Parties' Joint Motion to Voluntarily Dismiss Pursuant to Fed. R. Civ. P. 41(a)* by causing true and accurate copies of such paper to be filed and served on all counsel of record via the Court's CM/ECF electronic filing system, on this the 3rd day of April 2015.

/s/ Samuel M. Lasser