

HYDE & SWIGART  
San Diego, California

1 Jessica R. K. Dorman, Esq. (SBN: 279919)  
jessic@westcoastlitigation.com  
2 Joshua B. Swigart, Esq. (SBN: 225557)  
josh@westcoastlitigation.com  
3 **HYDE & SWIGART**  
4 2221 Camino Del Rio South, Suite 101  
San Diego, CA 92108  
5 Telephone: (619) 233-7770  
6 Facsimile: (619) 297-1022

7 [Additional Attorneys Listed on Signature Page]

8 *Attorneys for Plaintiff,*  
9 Rebecca Scheuerman

10 Angel A. Garganta, Esq. (SBN: 163957)  
11 agarganta@venable.com  
12 **VENABLE LLP**  
13 505 Montgomery Street,  
Suite 1400  
14 San Francisco, CA 94111  
15 Telephone: (415) 653-3735  
Facsimile: (415) 653-3755

16 *Attorneys for Defendant,*  
17 Vitamin Shoppe Industries, Inc. dba Vitamin Shoppe, Inc.

18 **UNITED STATES DISTRICT COURT**  
19 **SOUTHERN DISTRICT OF CALIFORNIA**

<p>20 <b>REBECCA SCHEUERMAN,</b> 21 <b>individually and on behalf of all</b> 22 <b>others similarly situated,</b></p> <p>23 <b>PLAINTIFF,</b></p> <p>24 <b>V.</b></p> <p>25 <b>VITAMIN SHOPPE</b> 26 <b>INDUSTRIES, INC. dba</b> 27 <b>VITAMIN SHOPPE, INC.,</b></p> <p>28 <b>DEFENDANT.</b></p>	<p><b>Case No: 3:15-cv-00025-AJB-NLS</b></p> <p><b>JOINT MOTION FOR DISMISSAL</b> <b>OF ACTION WITHOUT</b> <b>PREJUDICE AS TO THE NAMED</b> <b>PLAINTIFF AND WITHOUT</b> <b>PREJUDICE AS TO THE PUTATIVE</b> <b>CLASS</b></p> <p><b>HON. ANTHONY J. BATTAGLIA</b></p>
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1 Plaintiff REBECCA SCHEUERMAN, (hereinafter “Plaintiff”) and Defendant  
2 VITAMIN SHOPPE INDUSTRIES, INC. DBA (hereinafter “Defendant”), (all jointly  
3 hereinafter referred to as “the Parties”), hereby move to dismiss the above entitled  
4 action without prejudice as to the named Plaintiff and without prejudice as to the  
5 Putative Class pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii).

6 The notice and approval requirements of Federal Rule of Civil Procedure  
7 23(e)<sup>1</sup> are inapplicable to the parties’ settlement and dismissal of this putative class  
8 action because this action has not been certified as a class.

9 The Parties agree that this Court can proceed to dismiss this action entirely  
10 without prejudice as to the named Plaintiff and without prejudice as to the Putative  
11 Class.

12 Dated: August 10, 2015

**HYDE & SWIGART**

13 By: /s/Jessica R. K. Dorman  
14 Jessica R. K. Dorman  
15 Attorneys for Plaintiff

16 Dated: August 10, 2015

**VENABLE LLP**

17 By: /s/Angel A. Garganta  
18 Angel A. Garganta  
19 Attorneys for Defendant

20 [Additional Attorneys for the Plaintiff]

21 Abbas Kazerounian, Esq. (SBN: 249203)  
22 ak@kazlg.com

23 **KAZEROUNI LAW GROUP, APC**  
24 245 Fischer Avenue, Suite D1  
25 Costa Mesa, CA 92626  
26 Telephone: (800) 400-6808  
27 Facsimile: (800) 520-5523

28 <sup>1</sup> Federal Rule of Civil Procedure 23(e) states “[t]he claims, issues or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the Court’s approval.

1 [Additional Attorneys for the Defendant]

2 Melissa C. McLaughlin, Esq. (SBN: 273619)

3 mcmclaughlin@venable.com

4 **VENABLE LLP**

5 2049 Century Park East, Suite 2100

6 Los Angeles, CA 90067

7 Telephone: (310) 229-9900

8 Facsimile: (310) 229-9901

9  
10  
11 **Signature Certification**

12 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies  
13 and Procedures Manual, I hereby certify that the content of this document is  
14 acceptable to Angel A. Garganta counsel for Defendant, and that I have obtained  
15 Mr. Garganta's authorization to affix his electronic signature to this document.

16 Dated: August 10, 2015

**HYDE & SWIGART**

17 By: /s/Jessica R. K. Dorman

18 Jessica R. K. Dorman

19 Attorneys for Plaintiff  
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HYDE & SWIGART  
San Diego, California

1 *Scheuerman v. Vitamin Shoppe Industries, Inc.*  
2 *United States District Court, Southern District of California*  
3 *Case No.: 3:15-cv-00025-AJB-NLS*

4  
5 **CERTIFICATE OF SERVICE**

6 I, Eva Dickey, declare as follows:

7 I am over the age of eighteen years and not a party to the case. I am employed in the County of San Diego,  
8 California where the mailing occurs: My business address is 2221 Camino Del Rio South, Suite 101, San Diego,  
9 CA 92108. I am readily familiar with our business' practice of collecting, processing and mailing of  
correspondence and pleadings for mail with the United Postal Service.

10 On the date below I electronically filed with the Court through its CM/ECF program and served through the  
11 same program the following document(s):

- 12 • **Joint Motion for Dismissal of Action Without Prejudice as to the Named Plaintiff and Without  
13 Prejudice as to the Putative Class**

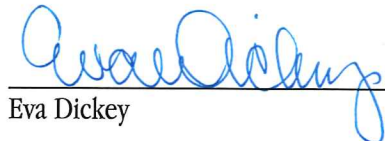
14 On the interested parties in said case addressed as follows:

15 Angel A. Garganta  
16 **Venable LLP**  
17 Spear Tower, 40th Floor  
18 One Market Plaza  
19 1 Market Street  
20 San Francisco, CA 94105

Melissa C. McLaughlin  
**Venable LLP**  
2049 Century Park East, Suite 2100  
Los Angeles, CA 90067

21 [X] ELECTRONICALLY, Pursuant to the CM/ECF System, registration as a CM/ECF user constitutes  
22 consent to electronic service through the Court's transmission facilities. The Court's CM/ECF system  
23 sends an email notification of the filing to the parties and counsel of record listed above who are  
24 registered with the Court's CM/ECF system.

25 I declare under penalty under perjury under the laws of the State of California that the foregoing is true and  
26 correct. Executed on August 12, 2015, at San Diego, California.

27   
28 \_\_\_\_\_  
Eva Dickey

HYDE & SWIGART  
San Diego, California