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28 **UNITED STATES DISTRICT COURT**

29 **CENTRAL DISTRICT OF CALIFORNIA**

30 WENDY CHOWNING and
31 LOURDES CASAS, individually and
32 on behalf of all others similarly
33 situated,

34 Plaintiffs,

35 v.

36 KOHL'S DEPARTMENT STORES,
37 INC., a Delaware Corporation;
38 KOHL'S CORPORATION; and
39 DOES 1 through 20, inclusive,

40 Defendants.

41 CASE NO. 2:15-cv-8673-RGK-SP

42 **CLASS ACTION**

43 **STIPULATION OF DISMISSAL**
44 **PURSUANT TO FEDERAL RULE**
45 **41(a)(1)(A)(ii)**

46 Judge: Hon. R. Gary Klausner

47 Ctrm: 850

1 Plaintiff Wendy Chowning (“Plaintiff”) and Defendants Kohl’s Corp. and
2 Kohl’s Department Stores, Inc. (collectively, “Kohl’s”), being referred to
3 collectively herein as the “Parties,” by and through their respective counsel,
4 hereby stipulate as follows:

5 **STIPULATION**

6 WHEREAS, Plaintiff filed a First Amended Complaint (“FAC”) on
7 January 20, 2016 [Dkt. No. 44], alleging multiple legal claims, including claims
8 under California’s False Advertising Law (the “FAL”); California’s Unfair
9 Competition Law (the “UCL”) and California’s Consumers Legal Remedies Act
10 (the “CLRA”);

11 WHEREAS, on March 15, 2016, the Court granted Defendant’s Motion
12 for Summary Judgment as to all claims for monetary relief under the FAL and
13 UCL claims as well as to “any claim for restitution under the CLRA.” [Dkt. No.
14 112 at 14];

15 WHEREAS, on April 1, 2016, the Court denied Plaintiff’s Motion for
16 Class Certification [Dkt. No. 123], determining that:

17 1. In light of the Order granting partial summary judgment,
18 Plaintiff was left with only two claims: (a) injunctive relief; and (b) Non-
19 restitutionary monetary relief under the CLRA;

20 2. Plaintiff is barred from pursuing injunctive relief based on the
21 rule against duplicative actions; and

22 3. Plaintiff did not advance any non-restitutionary theory of
23 damages;

24 WHEREAS, on June 14, 2016, Plaintiff filed a Request for Status
25 Conference or, in the Alternative, Entry of Judgment (“Request”) [Dkt. No. 132];

26 WHEREAS, on June 30, 2016, Kohl’s filed a Non-Opposition to
27 Plaintiff’s Request [Dkt. No. 134];
28

1 WHEREAS, on July 27, 2016, the Court issued an Order construing
2 Plaintiff's Request as a Motion for Judgment on the Pleadings and denying such
3 motion [Dkt. No. 136];

4 WHEREAS, Plaintiff's FAC does not make any claim for punitive or
5 statutory damages under the CLRA;

6 WHEREAS, the only measures of actual damages that Plaintiff seeks
7 under the CLRA are: 1) a return of the full amount that she paid for her
8 purchases; and 2) the difference between the price paid and the value of what she
9 received, which measures were specifically rejected by the Court in its order
10 granting partial summary judgment; and

11 WHEREAS, Plaintiff submits that, as the cumulative result of the Court's
12 orders and the relief she is pursuing in this action, Plaintiff has no further
13 remedies to pursue.

14 WHEREFORE, IT IS HEREBY STIPULATED BY THE PARTIES
15 THROUGH THEIR RESPECTIVE COUNSEL AS FOLLOWS:

16 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure,
17 Plaintiff, having no remaining remedies to pursue, dismisses her case with
18 prejudice.

19 This stipulation is not filed pursuant to a settlement agreement. The
20 Parties have not entered into any settlement of Plaintiff's claims. The Plaintiff
21 agrees that this stipulation of dismissal does not prevent Kohl's from seeking
22 costs pursuant to Rule 54(d) of the Rules of Civil Procedure.

23 Kohl's agrees that it will not challenge any appeal by plaintiff on the
24 ground that a voluntary dismissal pursuant to Rule 41(a)(1)(A)(ii) of the Federal
25 Rules of Civil Procedure bars plaintiff from appealing.

26 IT IS SO STIPULATED.

27
28

1 Dated: August 26, 2016

THE EMGE FIRM, LLP

2 /s/

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18 Dated: August 26, 2016

ARNOLD & PORTER LLP

19 /s/

20 ALEX BEROUKHIM

21 JAMES F. SPEYER

22 777 South Figueroa St., 44th Fl.

23 Los Angeles, CA 90017

24 The undersigned hereby certifies pursuant to Local Rule 5-4.3.4 that all
25 signatories listed above concur in the content and have authorized this filing.

26 Dated: August 24, 2016

THE EMGE FIRM, LLP

27 /s/

28 DEREK J. EMGE

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} Case No. 2:15-cv-08673-RGK (SP)

} CLASS ACTION

} **PROOF OF SERVICE**

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