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

20 JEFFREY JOHNSTON, individually and on
21 behalf of all others similarly situated,

22 Plaintiff,

23 vs.

24 SCHIFF NUTRITION INTERNATIONAL,
25 INC., a Delaware corporation, and
26 RECKITT BENCKISER LLC, a Delaware
27 limited liability company,

28 Defendants.

No. 15-cv-03669-PJH

**STIPULATION AND
~~PROPOSED~~ ORDER
REGARDING WITHDRAWAL
OF MOTION FOR CLASS
CERTIFICATION AND
VOLUNTARY DISMISSAL
PURSUANT TO FRCP 41(a)**

1 because, aside from a few reports in Law360.com and the like shortly after the case
2 was filed in August 2015, there has been no publicity about this case. No related
3 case has been filed since then, and the claims of absent class members have neither
4 been settled nor compromised in any way.

5 In short, the only person affected by the settlement of Plaintiff Johnston's
6 individual claims is Plaintiff Johnston. *See, e.g., Lyons v. Bank of Am., NA., 2012*
7 *U.S. Dist. LEXIS 168230, at *3-5 (N.D. Cal. Nov. 27, 2012).* Accordingly, Plaintiff
8 hereby withdraws his motion for class certification and the parties hereby stipulate
9 to the dismissal of Plaintiff Johnston's individual claims with prejudice, and to the
10 dismissal of the claims of absent class members without prejudice, pursuant to
11 Federal Rule of Civil Procedure 41(a)(1)(A)(ii), and respectfully request that their
12 stipulation be adopted as an order of the Court.

13 **IT IS SO STIPULATED.**

14 DATED: July 13, 2017

FAZIO | MICHELETTI LLP

15
16 By /s/ Jeffrey L. Fazio
Jeffrey L. Fazio¹

17 Attorneys for Plaintiff
18 Jeffrey Johnston, on behalf of himself
19 and all others similarly situated

20 DATED: July 13, 2017

LATHAM & WATKINS LLP

21
22 by /s/ Kathleen Lally
Kathleen Lally

23 Attorneys for Defendants
24 Schiff Nutrition International, Inc., and
25 Reckitt Benckiser LLC

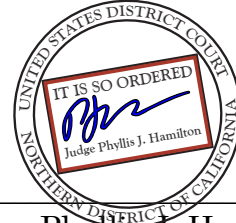
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27 ¹ Pursuant to Civil L.R. 5.1(i)(3), by the signature set forth above, Jeffrey L.
Fazio hereby attests that the other signatory concurs in the filing of this document.

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~~PROPOSED~~ ORDER

IT IS SO ORDERED.

July 14, 2017.



Hon. Phyllis J. Hamilton
United States District Judge