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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW LOPEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NAC MARKETING COMPANY, LLC, a
Delaware limited liability company; and
DOES 1 – 10, inclusive,

Defendants.

Case No. 3:15-cv-02522-AJB-JLB

**JOINT MOTION TO DISMISS FIRST
AMENDED COMPLAINT WITH
PREJUDICE**

Filed: November 9, 2015

1 Plaintiff Matthew Lopez (“Plaintiff”) and Defendant NAC Marketing Company,
2 LLC (“Defendant”), through their counsel of record, state as follows:

3 **RECITALS**

4 A. On November 9, 2015, Plaintiff filed this action as *John Doe v. NAC*
5 *Marketing Company, LLC, et al.*, seeking recovery under California’s Automatic
6 Renewal Law, California Business & Professions Code §§ 17600-17604, and related
7 statutes. On November 17, 2015, Plaintiff filed a Motion for Preliminary Injunction,
8 setting hearing for January 21, 2016, in this Court. Subsequently, on December 6, 2015,
9 Plaintiff filed a Notice of Conditional Withdrawal of Motion for Preliminary Injunction
10 Without Prejudice.

11 B. On December 1, 2015, Defendant filed a Motion to Dismiss Complaint,
12 setting hearing for January 21, 2016, in this Court. Following briefing of the motion by
13 the parties, this Court, by Order dated January 7, 2016, vacated the hearing of the
14 motion and granted it, giving Plaintiff fourteen days leave to amend. On January 21,
15 2016, Plaintiff filed a First Amended Complaint.

16 C. As a result of discussions between the parties concerning this action,
17 Plaintiff and Defendant agreed that all matters raised in the First Amended Complaint
18 had been resolved between them, with the sole exception of whether Plaintiff was
19 entitled to recover attorneys’ fees and costs under a catalyst theory, and if so, the amount
20 of such attorneys’ fees and costs.

21 D. By order filed March 24, 2016, the Court denied Plaintiff’s motion for
22 attorney fees and directed the parties to file a joint motion clarifying that the dismissal of
23 the First Amended Complaint is with prejudice no later than April 1, 2016.

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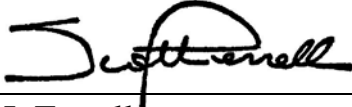
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1 NOW, THEREFORE, the parties hereto, through their counsel of record,
2 stipulate, agree and jointly move pursuant to Federal Rules of Civil Procedure, Rule
3 41(a) for an order dismissing the First Amended Complaint [Document 22] WITH
4 PREJUDICE.


5
6
7 Dated: March 25, 2016

NEWPORT TRIAL GROUP, APC

8 By: 
9 Scott. J. Ferrell
10 Richard H. Hikida
11 David W. Reid
12 Victoria C. Knowles
Attorneys for Plaintiff MATTHEW LOPEZ

13 Dated: March 25, 2016

TUCKER ELLIS LLP

14
15 By: 
16 Daniel J. Kelly
17 Matthew I. Kaplan
18 Ronie M. Schmelz
Attorneys for Defendant NAC Marketing
19 Company, LLC
20

21 I, Scott J. Ferrell, hereby certify that the content of this document is acceptable to
22 all persons required to sign this document and that I obtained the authorizations
23 necessary for the electronic signatures of all parties for this document.

24 /s/Scott J. Ferrell
25 Scott J. Ferrell
26
27
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CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2016, I electronically filed the foregoing **JOINT MOTION TO DISMISS FIRST AMENDED COMPLAINT WITH PREJUDICE** with the Clerk of the Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Scott J. Ferrell
Scott. J. Ferrell