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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

KATHY LIRA, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

WEB.COM GROUP, INC., a Delaware  
corporation; and DOES 1 – 10, inclusive,

Defendants.

Case No. 8:17-cv-01210-JLS-KES

**PLAINTIFF’S SECOND AMENDED  
NOTICE OF VOLUNTARY  
DISMISSAL WITH PREJUDICE  
PURSUANT TO FEDERAL RULE OF  
CIVIL PROCEDURE 41(a)(1)(A)(i)**

FILED UNDER SEAL PURSUANT TO  
LOCAL RULE 79-5.2.2(c) AND  
ORDERS OF THE COURT DATED  
AUGUST 1, 2017 AND AUGUST 11,  
2017

Complaint filed: June 5, 2017

1 NOTICE IS HEREBY GIVEN that pursuant to Rule 41(a)(1)(A)(i) of the Federal  
2 Rules of Civil Procedure, Plaintiff KATHY LIRA (“Plaintiff”) voluntarily dismisses  
3 the above-captioned action with prejudice as to her individual claims, and without  
4 prejudice as to the putative class. Pursuant to the Court’s August 1, 2017 and August  
5 11, 2017 orders [Dkt. Nos. 11 and 13], and Local Rule 79-5.2.2(c), Plaintiff  
6 concurrently files under seal the individual settlement agreement between Plaintiff and  
7 Defendant Web.com Group, Inc. under seal.

8 Pursuant to Rule 23(e), “the district court should inquire into possible prejudice  
9 from (1) class members’ possible reliance on the filing of the action if they are likely to  
10 know of it either because of publicity or other circumstances, (2) lack of adequate time  
11 for class members to file other actions, because of a rapidly approaching statute of  
12 limitations, (3) any settlement or concession of class interests made by the class  
13 representative or counsel in order to further their own interests.” *Diaz v. Trust*  
14 *Territory of the Pacific Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989).

15 In this instance, the *Diaz* factors weigh in favor of dismissal of Plaintiff’s  
16 individual claims with prejudice. First, it is Plaintiff’s counsel’s understanding that this  
17 action has not been publicized in any way and as such, the putative class members are  
18 highly unlikely to have knowledge of it, or to have relied upon it in any way. Similarly,  
19 Plaintiff’s counsel is unaware of any other circumstances that may have lead to the  
20 putative class’s knowledge of, or reliance upon, this action.

21 Second, the statute of limitations in this action is not approaching. Plaintiff made  
22 the underlying purchase in this action in February 2017 and as such, based on the three  
23 year statute of limitations associated with her causes of action, the statute of limitations  
24 shall not run until February 2020. As such, the rights of the putative class are preserved  
25 by the solely individual dismissal of Plaintiff’s claims with prejudice.

26 Lastly, Plaintiff and her counsel made no settlement or concession of class  
27 interests in order to resolve Plaintiff’s individual claims. Indeed, the resolution reached  
28

1 between the Parties does not address, affect or change the putative class's rights or  
2 claims in any manner.

3 An evaluation of the foregoing *Diaz* factors weigh in favor of dismissal of  
4 Plaintiff's individual claims with prejudice, and dismissal of the putative class's claims  
5 without prejudice.

6 Respectfully submitted,

7  
8 Dated: August 16, 2017

PACIFIC TRIAL ATTORNEYS, APC

9 By: /s/ Scott J. Ferrell

10 Scott. J. Ferrell  
11 Attorneys for Plaintiff  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 16, 2017, I electronically filed the foregoing **PLAINTIFF’S SECOND AMENDED NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i)** 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*

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Scott J. Ferrell