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12
 13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 MAKINDE PECANHA and SHAUN RAY
 16 BELL, on behalf of themselves and all others
 similarly situated,

17 **Plaintiffs,**

18 **v.**

19 THE HAIN CELESTIAL GROUP, INC. and
 20 JÄSÖN NATURAL PRODUCTS, INC.,

21 **Defendants.**

Case No. 3:17-cv-04517-EMC

**JOINT STATEMENT REGARDING
 DISMISSAL**

Judge Edward M. Chen

1 Plaintiffs, MAKINDE PECANHA and SHAUN RAY BELL (“Plaintiffs”) and Defendants,
2 THE HAIN CELESTIAL GROUP, INC. and JĀSÖN NATURAL PRODUCTS, INC.
3 (“Defendants”), the parties to the above-titled action (collectively “Parties”), jointly submit this
4 Joint Statement Regarding Dismissal Pursuant to the January 14, 2019 Clerk’s Notice. Dkt. No.
5 56.

6 **I. THE COURT SHOULD APPROVE THE STIPULATION OF DISMISSAL**

7 The parties respectfully request that the Court approve the stipulation of dismissal pursuant
8 to Fed. R. Civ. P. 41(a)(1)(A). Even assuming that the Ninth Circuit’s decision in *Diaz v. Trust*
9 *Territory of the Pacific Islands*, 876 F.2d 1401 (9th Cir. 1989), requires this Court’s approval of the
10 parties’ stipulation of dismissal, the Court should grant approval for the following reasons:

11 First, the stipulation of dismissal is only as to the claims of Plaintiffs Makinde Pecanha and
12 Shaun Ray Bell. The Court has not certified any class in this case, and class members are not
13 releasing their claims as part of the stipulation of dismissal. Accordingly, the unnamed class
14 members will be in the same position they were at the time this case commenced. *See Diaz*, 876
15 F.2d at 1408 (directing courts to consider whether the settlement compromises the interests of un-
16 named putative class members).

17 Second, there has been virtually no publicity about this case except for a few articles in the
18 legal press regarding the Court’s order denying the motion to dismiss. The parties are not aware of
19 any reporting about this case in the mainstream press nor are they aware of any absent class
20 member who is relying on the pendency of this action. *See id.* (directing courts to consider “class
21 members’ possible reliance on the filing of the action if they are likely to know of it because of
22 publicity or other circumstances).

23 Third, each of Plaintiffs’ causes of action has a four-year statute of limitations, and there is
24 no indication that putative class members’ claims will be prejudiced by the dismissal of the action.
25 *See Diaz*, 876 F.2d at 1408 (directing courts to consider whether class members will be prejudiced
26 by a “rapidly approaching statute of limitations”).

27 Finally, it should be noted that the parties reached a settlement in this case only after
28 Defendants produced confidential information in discovery revealing that sales of the challenged

1 JÄSÖN deodorant products during the class period were low and confirming that JÄSÖN had
2 discontinued its use of the challenged “Natural” representations. In light of the low sales volume
3 of the products, the magnitude of the fees that would be required to retain experts in connection
4 with class certification, and the uncertainty and risk involved in any litigation, the parties decided
5 to settle the matter. Therefore, the parties request that the Court approve the dismissal of this
6 action.

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8 Dated: January 21, 2019

BURSOR & FISHER, P.A.

9 By: /s/ Joel D. Smith
10 Joel D. Smith

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17 Dated: January __, 2019

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24 *Attorneys for Plaintiffs*

25 Dated: January __, 2019

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CERTIFICATE OF SERVICE

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I hereby certify that I served the foregoing through the Court’s CM/ECF system upon all counsel registered with that system.

DATED: January 15, 2019

By: /s/ Reuben D. Nathan
Reuben D. Nathan