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11 Attorneys for Defendant
 KEMPER SPORTS MANAGEMENT, INC.
 12 (erroneously sued as KEMPERSPORTS MANAGEMENT, INC.)

13 UNITED STATES DISTRICT COURT
 14 EASTERN DISTRICT OF CALIFORNIA
 15 FRESNO

17 KRISTINE LIVINGSTON, Individually, and
 as Guardian ad Litem for IZAAK
 18 LIVINGSTON, a Minor, JASON ALAN
 LIVINGSTON, WESLEY ALEXANDER
 19 LIVINGSTON, as Survivors of Mark
 Livingston, Deceased,

20 Plaintiffs,

21 vs.

22 KEMPERSPORTS MANAGEMENT, INC.,

23 Defendant.

Case No. 1:12-CV-01427-LJO-SKO

**STIPULATION AND ORDER
 REGARDING PLAINTIFFS'
 VOLUNTARY DISMISSAL OF
 CLAIMS**

25 IT IS HEREBY STIPULATED AND AGREED, by the parties hereto, by and through
 26 their respective counsel of record, as follows:

1 1. In its February 1, 2013 Scheduling Order, Dkt. No. 26, the Court provided that,
2 prior to filing a Motion for Summary Judgment, the parties were ordered to meet and confer for
3 the purpose of (1) avoiding filing motions for summary judgment where a question of fact exists;
4 (2) determining whether the respondent agrees that the motion has merit in whole or in part; (3)
5 discussing whether issues can be resolved without the necessity of briefing; (4) narrowing the
6 issues for review by the court; (5) exploring the possibility of settlement before the parties incur
7 the expense of briefing a summary judgment motion; and (6) arriving at a joint statement of
8 undisputed facts.

9 2. Through the meet and confer process, Plaintiffs have agreed to dismiss those
10 portions of their survivor and wrongful death causes of action based on alleged disability
11 discrimination, failure to accommodate, failure to engage in the interactive process, retaliation,
12 sex discrimination, and sex harassment. Defendant does not believe Plaintiffs alleged claims for
13 sex discrimination or sex harassment in their First Amended Complaint. Defendant also
14 believes, to the extent any of the alleged bases for Plaintiffs' survivor and wrongful death actions
15 are stated by Plaintiffs, that they should have been stated as individual claims, and will be
16 dismissed as individual claims here.

17 3. The Parties also expressly agree that, with this stipulation, neither party is waiving
18 any right to seek costs, sanctions or any other redress from the other in connection with this
19 litigation prior to the entry of this Stipulation.

20 IT IS HEREBY STIPULATED AND AGREED that Plaintiffs are voluntarily dismissing
21 any claim, whether as an individual claim or as a basis for a survivor or wrongful death action,
22 for: (1) disability discrimination; (2) failure to accommodate a disability; (3) failure to engage in
23 the interactive process; (4) retaliation; (5) sex discrimination; or (6) sex harassment. Plaintiffs
24 shall not be permitted to revive or assert any of these claims at any point up to and including
25 trial. These claims, or Plaintiffs' claims for a survivor action or wrongful death action based on
26 these alleged violations of the FEHA, shall be dismissed with prejudice.

1 IT IS FURTHER HEREBY STIPULATED AND AGREED that, because Plaintiffs have
2 voluntarily agreed to dismiss the claims as stated herein, those claims shall not be the subject of
3 Defendant's pending Motion for Summary Judgment.

4 IT IS FURTHER HEREBY STIPULATED AND AGREED that the only remaining
5 claims, or the remaining bases for Plaintiffs' survivor action and wrongful death action, are as
6 follows: (1) age discrimination in violation of the FEHA; (2) failure to prevent age
7 discrimination in violation of the FEHA; and (3) wrongful death. No further claims may be
8 raised by Plaintiffs at any point during this litigation.

9 IT IS SO STIPULATED

10
11 DATED: April 10, 2014

LAW OFFICE OF DEAN B. GORDON

12
13 By: /s/ Dean B. Gordon
14 Dean B. Gordon

15 Attorneys for Plaintiffs
16 KRISTINE LIVINGSTON, IZAAK
LIVINGSTON, JASON ALAN LIVINGSTON
and WESLEY ALEXANDER LIVINGSTON

17
18 DATED: April 10, 2014

SEYFARTH SHAW LLP

19
20 By: /s/ Matthew J. Mason
21 Michael J. Burns
22 Matthew J. Mason
Chantelle C. Egan

23 Attorneys for Defendant
24 KEMPER SPORTS MANAGEMENT, INC.
(erroneously sued as KEMPERSPORTS
25 MANAGEMENT, INC.)

1 **ORDER**

2 The parties having so stipulated, and GOOD CAUSE APPEARING THEREFORE, IT IS
3 HEREBY ORDERED that:

4 1. Plaintiffs' claims, whether as an individual claim or as a basis for a survivor or
5 wrongful death action, for: (1) disability discrimination; (2) failure to accommodate a disability;
6 (3) failure to engage in the interactive process; (4) retaliation; (5) sex discrimination; or (6) sex
7 harassment are hereby DISMISSED WITH PREJUDICE. Plaintiffs shall not be permitted to
8 revive or assert any of these claims at any point up to and including trial.

9 2. The Parties shall not be required to address any of the dismissed claims in
10 Defendant's anticipated Motion for Summary Judgment (and all related papers). The only
11 claims to be addressed in the anticipated Motion for Summary Judgment and for all other
12 purposes up to and including trial in this case shall be limited to the following claims and/or
13 bases for claims: (1) age discrimination in violation of the FEHA; (2) failure to prevent age
14 discrimination in violation of the FEHA; and (3) wrongful death. No further claims may be
15 raised by Plaintiffs at any point during this litigation.

16 **SO ORDERED**
17 **Dated: April 10, 2014**

18 /s/ Lawrence J. O'Neill
19 **United States District Judge**