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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	CORY LARSON,	No. 1:16-cv-00219-DAD-SKO	
12	Plaintiff,		
13	v.	ORDER ON WITHDRAWAL OF RENEWED MOTION TO STAY AND CONTINUING	
14	HARMAN-MANAGEMENT	HEARINGS FOR MOTION FOR CLASS	
15	CORPORATION, 3SEVENTY, INC.,  Defendants.	CERTIFICATION AND MOTION FOR SUMMARY JUDGEMENT	
16	Defendants.	(Doc. No. 121)	
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19	On March 20, 2018, defendant Harman Management Corporation ("HMC") filed a request		
20	for expedited status conference and notice of withdrawal of its renewed motion to stay. (Doc. No.		
21	121.) On February 1, 2018, defendant had filed a renewed motion to stay this action (Doc. No.		
22	108), which came before the court for a motion hearing on February 15, 2018 (Doc. No. 119).		
23	While defendant's motion to stay was under submission, a decision was issued in ACA Int'l v.		
24	Fed. Commc'ns Comm'n, No. 15-1211, F.3d, 2018 WL 1352922, at *1 (D.C. Cir. Mar.		
25	16, 2018). As a result, defendant has now filed a notice withdrawing its pending renewed motion		
26	to stay. The court notes that plaintiff's motion for class certification (Doc. No. 98) and defendant		
27	3Seventy, Inc.'s motion for summary judgment (Doc. No. 101) are currently set for hearing		
28	before this court on April 17, 2018. (Doc. No. 119.)		

"Withdrawal of a motion has a practical effect as if the party had never brought the motion." *Caldwell-Baker Co. v. S. Ill. Railcar Co.*, 225 F. Supp. 2d 1243, 1259 (D. Kan. 2002); *see also Davis v. United States*, No. 5:07-cv-00481-VAP-OP, 2010 WL 334502, at \*2 (C.D. Cal. Jan. 28, 2010) ("The effect of withdrawal of a motion is to leave the record as it stood prior to the filing as though the motion had never been made"); *Remley v. Lockheed Martin Corp.*, No. 3:00-cv-02495-CRB, 2001 WL 681257, at \*3 (N.D. Cal. June 4, 2001) (same). Here, it is appropriate to grant defendant's withdrawal of its renewed motion to stay, given that defendant had requested a stay pending the *ACA International* decision, which has now been issued.

The court does not find it appropriate to grant defendant's "request [for] a status conference . . . on or before March 30, 2018 . . . so that the Court and parties may discuss the *ACA International* decision's impact on the management of this case, including potential simplification of the issues and the timing of class certification." (Doc. No. 121 at 3.) To the extent that defendant wishes the court to consider the "potential simplification of the issues" in this action, such arguments should be presented in the form of a motion to amend the scheduling order in this action and should be addressed to the magistrate judge assigned to this action..

Nonetheless, to allow the parties sufficient time to assess the potential implications of the recent *ACA International* decision on the pending motions and the scheduling of this case, the court will continue the hearing on the motion for class certification and motion for summary judgment to May 15, 2018. Deadlines for opposition and reply with respect to those motions are set in accordance with Local Rule 230. As indicated above, if any party request further changes to the scheduling order in this action (Doc. No. 43), the undersigned directs the parties to file a motion to amend that order or to request a status conference before the assigned magistrate judge. *See* Local Rule 302(c)(13).

## CONCLUSION

Accordingly,

- 1. Defendant's renewed motion to stay (Doc. No. 108) is withdrawn and terminated;
- 2. The hearing date for plaintiff's motion for class certification (Doc. No. 98) and defendant 3Seventy, Inc.'s motion for summary judgment (Doc. No. 101) is continued

1	to May 15, 2018, with deadlines for any oppositions and replies to be set in		
2	accordance with Local Rule 230(c) in light of the new hearing date.		
3	IT IS SO ORDERED.		
4	Dated: March 22, 2018	Dale A. Drogd	
5		UNITED STATES DISTRICT JUDGE	
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