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7 *Attorneys for Plaintiffs and the Proposed Class*

8  
 9 UNITED STATES DISTRICT COURT  
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 SACRAMENTO DIVISION

11 STEFANIE MLEJNECKY; GREG  
 12 CLAYTOR,

13 Plaintiffs,

14 v.

15 OLYMPUS IMAGING AMERICA INC.,

16 Defendant.

NO. 2:10-CV-02630-JAM-KJN

**STIPULATION OF VOLUNTARY  
 DISMISSAL OF PLAINTIFF  
 STEFANIE MLEJNECKY'S  
 INDIVIDUAL CLAIMS WITHOUT  
 PREJUDICE AND WITHOUT  
 AWARD OF COSTS AND  
 ATTORNEY FEES PURSUANT TO  
 RULE 41(a)(1)(A)(ii) AND  
 WITHDRAWAL OF PLAINTIFF  
 STEFANIE MLEJNECKY AS  
 NAMED PLAINTIFF**

**(Clerk's Action Required)**

Date: N/A  
 Time: N/A  
 Courtroom: 6  
 Judge: Hon. John A. Mendez

27 STIPULATION AND [PROPOSED] ORDER OF  
 VOLUNTARY DISMISSAL OF PLAINTIFF  
 MLEJNECKY'S INDIVIDUAL CLAIMS AND  
 WITHDRAWAL AS NAMED PLAINTIFF - 1  
 Case No. 2:10-CV-02630-JAM-KJN

1 WHEREAS Plaintiffs filed their Complaint on September 28, 2010;

2 WHEREAS Plaintiffs filed their Second Amended Complaint on May 6, 2011;

3 WHEREAS Olympus answered the Second Amended Complaint on September 12,  
4 2011;

5 WHEREAS Plaintiff Stefanie Mlejnecky seeks voluntary dismissal without prejudice of  
6 her individual claims pursuant to Rule 41(a)(1)(A)(ii) and seeks to withdraw as a Named  
7 Plaintiff and proposed Class Representative;

8 WHEREAS Plaintiff Greg Claytor will remain as a Named Plaintiff and proposed Class  
9 Representative and will continue to prosecute this action;

10 WHEREAS Plaintiffs have filed a Motion to Amend their Second Amended Complaint,  
11 which seeks, in part, to add Jennifer Dodge as a Named Plaintiff and Class Representative;

12 WHEREAS this Court has not yet decided Plaintiffs' Motion for Class Certification and  
13 thus the proposed class has not yet been certified;

14 WHEREAS Plaintiff Greg Claytor, Plaintiff Stefanie Mlejnecky and Proposed Plaintiff  
15 Jennifer Dodge have all appeared for depositions by Defendant Olympus Imaging America  
16 Inc.;

17 WHEREAS Plaintiff Stefanie Mlejnecky has not previously dismissed an action in any  
18 court based on or including the same claims against Defendant Olympus Imaging America,  
19 Inc.;

20 Therefore the parties agree and stipulate as follows:

21 **I. STIPULATION**

22 The parties agree and stipulate pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) that Plaintiff  
23 Stefanie Mlejnecky may withdraw as Class Representative and voluntarily dismiss her  
24 individual claims without prejudice and without award of costs or attorney fees. This stipulated  
25 dismissal of Plaintiff Stefanie Mlejnecky's individual claims without prejudice and without  
26

27 STIPULATION AND [PROPOSED] ORDER OF  
VOLUNTARY DISMISSAL OF PLAINTIFF  
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Case No. 2:10-CV-02630-JAM-KJN

1 award of costs or attorney fees is automatically effective upon the date of filing referenced  
2 below. This stipulation does not effect dismissal of any other claims in this case, including but  
3 not limited to Plaintiff Greg Claytor's individual claims, proposed Plaintiff Jennifer Dodge's  
4 individual claims, and the proposed class claims.

5 RESPECTFULLY SUBMITTED AND DATED this 11th day of April, 2012.

6 TERRELL MARSHALL DAUDT  
7 & WILLIE PLLC

DLA PIPER LLP (US)

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27 STIPULATION AND [PROPOSED] ORDER OF  
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**II. ORDER**

IT IS SO ORDERED.

Dated this 11<sup>th</sup> day of April, 2012.

/s/ John A. Mendez  
UNITED STATES DISTRICT COURT JUDGE

Presented by:  
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STIPULATION AND [PROPOSED] ORDER OF  
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Case No. 2:10-CV-02630-JAM-KJN

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STIPULATION AND [PROPOSED] ORDER OF  
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MLEJNECKY'S INDIVIUDAL CLAIMS AND  
WITHDRAWAL AS NAMED PLAINTIFF - 5

Case No. 2:10-CV-02630-JAM-KJN

1 CERTIFICATE OF SERVICE

2 I, Beth E. Terrell, hereby certify that on April 11, 2012, I electronically filed the  
3 foregoing with the Clerk of the Court using the CM/ECF system which will send notification of  
4 such filing to the following:

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16 *Attorneys for Defendant*

17 DATED this 11th day of April, 2012.

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