

1 ANTHONY J. DECRISTOFORO, SBN #166171  
 anthony.decristoforo@ogletree.com  
 2 CHAMBORD V. BENTON-HAYES, SBN #278970  
 Chambord.benton-hayes@ogletree.com  
 3 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
 Esquire Plaza  
 4 1215 K Street 17th Floor  
 Sacramento, CA 95814  
 5 Telephone: 916.840.3140  
 Facsimile: 916.840.3159

6 Attorneys for Defendant  
 7 TEMPUR-PEDIC NORTH AMERICA, LLC

8 UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA

11 KRISTEN MORRISSEY,  
 12 Plaintiff,  
 13 vs.  
 14 TEMPUR-PEDIC NORTH AMERICA, LLC.,  
 and DOES 1 through 100, inclusive,  
 15 Defendants  
 16

Case No. 2:17-cv-00521-MCE-EFB  
**JOINT STIPULATION FOR DISMISSAL  
 OF DEFENDANT TEMPUR-SEALY  
 INTERNATIONAL, INC. ONLY, WITH  
 PREJUDICE; ORDER**  
 (Sacramento County Superior Court, Case No.  
 34-2016-00205510)

17 **TO THE COURT AND ALL PARTIES:**

18 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff Kristen  
 19 Morrissey (“Plaintiff”) and Defendant Tempur-Pedic North America, LLC, stipulate and jointly  
 20 request that this Court enter a dismissal with prejudice of Plaintiff’s Complaint in the above-  
 21 entitled action with respect to **Defendant Tempur-Sealy International, Inc. only**. This  
 22 stipulation arises from the following facts:

- 23 1. Plaintiff named Tempur-Pedic North America, LLC as the only Defendant in the  
 24 Complaint in this action. Tempur-Pedic North America, LLC filed a motion to dismiss two of  
 25 Plaintiff’s claims, and Plaintiff agreed to file an Amended Complaint withdrawing those two  
 26 claims. On April 4, 2017, Plaintiff inadvertently named Tempur-Sealy International, Inc. instead  
 27 of Tempur-Pedic North America, LLC as the Defendant in her First Amended Complaint. [Dkt. 8]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. On April 7, 2017, Plaintiff filed another First Amended Complaint naming Defendant Tempur-Pedic North America, LLC as the Defendant in the caption of the case, but inadvertently naming Defendant Tempur-Sealy International, Inc. in the body of the pleading.

[Dkt.10]

3. On April 19, 2017, Plaintiff filed a Corrected First Amended Complaint naming only Defendant Tempur-Pedic North America, LLC in the caption of the case and in the pleading.

[Dkt. 13]

Based upon the above inadvertent errors, the parties stipulate to the dismissal with prejudice of Tempur-Sealy International Inc. as a Defendant in this matter.

IT IS SO STIPULATED.

Respectfully submitted,

DATED: April 24, 2017

MOYO LAW FIRM

By: /s/ Angelina Moyo (as authorized on April 25, 2017  
ANGELINA MOYO  
Attorneys for Plaintiff  
Kristen Morrissey

DATED: April 25, 2017

OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.

By: /s/ Chambord Benton-Hayes  
CHAMBORD BENTON-HAYES  
Attorneys for Defendant  
Tempur-Pedic North America, LLC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

Pursuant to stipulation, it is hereby ordered that Tempur-Sealy International Inc. is dismissed from this action with prejudice. The case shall proceed on the remaining claims against Defendant Tempur-Pedic North America, LLC.

IT IS SO ORDERED.

Dated: May 1, 2017

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE