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23 **UNITED STATES DISTRICT COURT**
 24 **EASTERN DISTRICT OF CALIFORNIA**

25 _____)
 26 KELLY HOOVER,)

27 Plaintiff,)

28 vs.)

29 MOM365, INC., a Missouri Corporation;)
 30 and DOES 1 to 100, inclusive,)

31 Defendants.)

32 **Case No. 2:17-CV-01328-TLN-CKD**

33 **STIPULATION AND ORDER TO**
 34 **WITHDRAW PLAINTIFF'S MOTION**
 35 **TO FILE A SECOND AMENDED**
 36 **COMPLAINT AND ACCOMPANYING**
 37 **BRIEFING SCHEDULED, AND TO**
 38 **MODIFY THE PRETRIAL**
 39 **SCHEDULING ORDER WITHOUT**
 40 **PREJUDICE**

41 Complaint Filed: May 19, 2017
 42 FAC Filed: September 1, 2017

1 This Stipulation and proposed Order is entered into between Plaintiff KELLY HOOVER
2 (“Plaintiff”) and Defendant MOM365, INC. (“Defendant”) (Plaintiff and Defendant all collectively, the
3 “Parties”), by and through their counsel of record, as follows:

4 WHEREAS, Plaintiff initiated the above entitled action by filing a Complaint in the California
5 Superior Court for the County of Sacramento on May 19, 2017;

6 WHEREAS Defendant removed Plaintiff’s Action to the United States Superior Court for the
7 Eastern District of California and filed a Notice of Removal on June 29, 2017;

8 WHEREAS Plaintiff filed a First Amended Complaint on September 1, 2017;

9 WHEREAS Plaintiff filed a Motion to Modify the Pre-Trial Scheduling Order and For Leave to
10 File a Second Amended Complaint and the Hearing for that Motion is scheduled for June 28, 2018 at
11 2:00 p.m. per the Court’s order on March 22, 2018;

12 WHEREAS Defendant has not yet filed an opposition to Plaintiff’s Motion to Modify the Pre-
13 Trial Scheduling Order and For Leave to File a Second Amended Complaint;

14 WHEREAS the Court entered a Pretrial Scheduling Order on October 19, 2017;

15 WHEREAS the Parties have been engaged in settlement discussions and have reached an
16 agreement for a class-wide settlement in principal and are finalizing all material terms of this settlement
17 subject to Court approval;

18 WHEREAS the Parties agree it is in their best interest to withdraw the Motion without prejudice
19 to their respective positions, including issues affecting statutes of limitations on the claims sought to be
20 added through the Motion, in order to preservice litigation and judicial resources and allow the parties to
21 seek preliminary and final approval of the class-wide settlement without prejudice to the parties’ original
22 position should the Court deny approval and return the litigation to status quo as if no settlement had
23 been entered into;

24 WHEREAS final approval by the Court of the class-wide settlement would dispense with the
25 need for the Court to determine Plaintiff’s Motion to Modify the Pre-Trial Scheduling Order and For
26 Leave to File a Second Amended Complaint;

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28 //

1 WHEREAS the Parties estimate the Hearing for Preliminary Approval of Settlement will be
2 approximately August 9, 2018 and the Hearing for Final Approval of Settlement will be approximately
3 January 24, 2019;

4 NOW, THEREFORE, good cause having been shown under Rule 16, IT IS HEREBY
5 STIPULATED AND AGREED, by and between the Parties, subject to the approval of the Court, as
6 follows:

7 1. That Plaintiff's Motion to Modify the Pretrial Scheduling Order and For Leave to File a
8 Second Amended Complaint Hearing currently set for 2:00 p.m. on June 28, 2018 be deemed withdrawn
9 without prejudice and that the currently set hearing date should be vacated pending class settlement
10 approval proceedings being completed; and

11 2. That nothing in this stipulation and proposed order, or the act of entering into this
12 stipulation and proposed order, shall prejudice Plaintiff or Defendant in any argument they may
13 otherwise make in relation to the Motion should it be refiled.

14
15 **Shimoda Law Corp.**

16
17 Dated: June 11, 2018

18 By: /s/ Justin P. Rodriguez
19 Galen T. Shimoda
20 Justin P. Rodriguez
21 Attorneys for Plaintiff

22 **FORD & HARRISON LLP**

23
24 Dated: June 11, 2018

25 By: /s/ David L. Cheng
26 David L. Cheng
27 (as authorized on 6/11/18)
28 Michelle B. Abidoye
Alexandria M. Witte
Attorneys for Defendant

1 **ORDER**

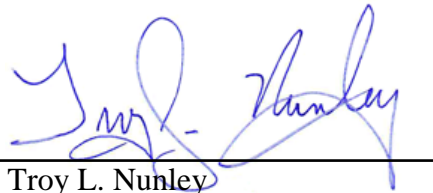
2 The COURT, having considered the above stipulation and finding good cause, HEREBY
3 ORDERS that:

4 1. That Plaintiff's Motion to Modify the Pretrial Scheduling Order and For Leave to File a
5 Second Amended Complaint Hearing currently set for 2:00 p.m. on June 28, 2018 be deemed withdrawn
6 without prejudice and that the currently set hearing date should be vacated pending class settlement
7 approval proceedings being completed; and

8 2. That nothing in this stipulation and order, or the act of entering into this stipulation and
9 order, shall prejudice Plaintiff or Defendant in any argument they may otherwise make in relation to the
10 Motion should it be refiled.

11
12 IT IS SO ORDERED.

13
14 Dated: June 12, 2018

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Troy L. Nunley
18 United States District Judge