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18 Attorneys for Defendants  
19 HOME DEPOT U.S.A., INC., ANGELA BASHER, and  
20 MICHAEL REILAND

21 **UNITED STATES DISTRICT COURT**  
22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
23 **SAN FRANCISCO DIVISION**

24 JANE PEREZ,

25 Plaintiff,

26 v.

27 HOME DEPOT U.S.A., INC., a Delaware  
28 Corporation; ANGELA BASHER, an  
individual; MICHAEL REILAND, an  
individual; and Does 1 through 20,

Defendants.

CASE NO. C 08-05670 JSW

**STIPULATION AND ORDER RE  
VOLUNTARY DISMISSAL, WITH  
PREJUDICE, OF THE SEVENTH CAUSE  
OF ACTION (VIOLATION OF FMLA)  
AND FOR REMAND TO STATE COURT**

Date Filed: October 14, 2008

**STIPULATION AND ORDER RE VOLUNTARY DISMISSAL OF SEVENTH CAUSE OF  
ACTION (VIOLATION OF FMLA) WITH PREJUDICE AND FOR REMAND TO STATE COURT  
CASE NO. C 08-05670 JSW**

**STIPULATION**

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3 On October 14, 2008, Plaintiff filed this action in the Contra Costa County Superior  
4 Court, Civil Action No C08-02592 (hereinafter "State Lawsuit"). The Seventh Cause of Action  
5 in the State Lawsuit was for violation of the federal Family Medical Leave Act of 1993  
6 (hereinafter "FMLA"), 29 USC § 2601 *et seq.*  
7

8 Subsequent to being served with the State Lawsuit, Defendant HOME DEPOT U.S.A.,  
9 INC., (hereinafter "Home Depot") removed the State Lawsuit to federal court on the grounds  
10 that this Court had federal question jurisdiction over the action because Plaintiff asserted a claim  
11 under federal law by the Seventh Cause of action.  
12

13 Plaintiff hereby agrees to voluntarily dismiss the Seventh Cause of Action (Violation of  
14 FMLA) in the Complaint, with prejudice. Each side to bear their own fees and costs to achieve  
15 said dismissal.  
16

17 Upon dismissal of the Seventh Cause of Action (Violation of FMLA), there is no longer a  
18 federal claim asserted and, accordingly, the matter may be remanded back to the Contra Costa  
19 Superior Court.  
20

21 The Parties, by and through their counsel, further agree that the discovery in progress will  
22 remain on track, including responding to Defendants' Request for Production (Set One) and the  
23 deposition of Plaintiff Jane Perez set for March 16, 2008. Further, the parties have and/or are  
24 planning to exchange information pursuant to FRCP Rule 26.  
25  
26

27 **STIPULATION AND ORDER RE VOLUNTARY DISMISSAL OF SEVENTH CAUSE OF**  
28 **ACTION (VIOLATION OF FMLA) WITH PREJUDICE AND FOR REMAND TO STATE COURT**  
**CASE NO. C 08-05670 JSW**

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IT IS SO STIPULATED:

DATED: Friday, March 06, 2009

SHEA LAW OFFICES

By: 

Mary Shea Hagebols  
Attorney for Plaintiff Jane Perez

DATED: March 6, 2009

PAYNE & FEARS LLP

By: 

John T. Egley

Attorneys for Defendants  
HOME DEPOT U.S.A., INC., ANGELA  
BASHER, and MICHAEL REILAND

March 16, 2009



STIPULATION AND ORDER RE VOLUNTARY DISMISSAL OF SEVENTH CAUSE OF  
ACTION (VIOLATION OF FMLA) WITH PREJUDICE AND FOR REMAND TO STATE COURT  
CASE NO. C 08-05670 JSW