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9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11 **MARLON MONTOYA**, Individually,) Case No. 3:15-cv-01758-WHA
 12 And On Behalf Of All Others Similarly)
 13 Situated,) **JOINT STIPULATION OF**
 14) **DISMISSAL OF ACTION WITH**
 15 Plaintiff,) **PREJUDICE AS TO THE NAMED**
 16 v.) **PLAINTIFF AND WITHOUT**
 17) **PREJUDICE AS TO THE**
 18 **FMS INVESTMENT CORP.**,) **PUTATIVE CLASS**
 19)
 20 Defendant.)
 21)

22 NOW COME THE PARTIES by and through their attorneys to respectfully
 23 move this Honorable Court to dismiss this matter with prejudice as to the named
 24 Plaintiff, and without prejudice as to the Putative Class alleged in the complaint,
 25 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Each party shall bear
 26 their own costs and attorney fees. A proposed order has been concurrently
 27 submitted to this Court.

28 The notice and approval requirements of Federal Rule of Civil Procedure
 29 23(e) are inapplicable to the parties' settlement and dismissal of this putative
 30 class action because this action has not been certified as a class.¹

¹ Federal Rule of Civil Procedure 23(e) states "[t]he claims, issues or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the Court's approval."

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MARLON MONTOYA, Individually,) Case No. 3:15-cv-01758-WHA
And On Behalf Of All Others Similarly)
Situating,) **ORDER**
)
Plaintiff,)
v.)
)
FMS INVESTMENT CORP.,)
)
Defendant.)
)

IT IS HEREBY ORDERED that pursuant to the Stipulation of the parties this matter is dismissed with prejudice as to the named Plaintiff, and without prejudice as to the Putative Class alleged in the complaint, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Each party shall bear their own costs and attorneys' fees.

Dated this 19th day of November, 2015.



The Honorable William Alsup