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 20 LIVEWATCH SECURITY, LLC

21 UNITED STATES DISTRICT COURT
 22
 23 NORTHERN DISTRICT OF CALIFORNIA

24 ELIZABETH MEDDAUGH, individually
 25 and on behalf of a class similarly situated
 26 individuals,

27 Plaintiff,

28 v.

LIVEWATCH SECURITY, LLC,

Defendant.

Case No. 16-cv-00131-MEJ

**JOINT STIPULATION OF DISMISSAL
 AND ORDER**

FRCP Rule 41(a)(1)(A)(ii)

1 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff ELIZABETH
2 MEDDAUGH (“Plaintiff”) and Defendant LIVEWATCH SECURITY, LLC (“Defendant”), by
3 and through their respective undersigned counsel, hereby submit this Joint Stipulation of
4 Dismissal and [Proposed] Order, and stipulate and agree as follows:

5 WHEREAS, on November 6, 2015, Plaintiff filed an alleged putative class action
6 complaint against Defendant asserting claims of unlawful Short Message Service texting to
7 Plaintiff and putative class members in violation of the Telephone Consumer Protection Act
8 (“TCPA”), 47 U.S.C. § 227, *et seq.*

9 WHEREAS, Defendant removed the action on January 8, 2016.

10 WHEREAS, Plaintiff has agreed to dismiss this entire civil lawsuit, with prejudice as to
11 her individual claims and without prejudice as to the alleged putative class action claims.

12 WHEREAS, Plaintiff has not moved for class certification, and a class has not been
13 certified by the Court. The Parties’ stipulated dismissal of this action does not resolve the claims,
14 issues, or defenses of any putative or certified class. Under Rule 23(e) of the Federal Rules of
15 Civil Procedure, where a class has not been certified, Court approval is not required for dismissal.
16 Fed. R. Civ. P. 23(e) (court approval only required for dismissal of “the claims, issues, or
17 defenses of a *certified* class”) (emphasis added); *see also Advisory Committee Notes on 2003*
18 *Amendments to Rule 23, Subdivision (e), Paragraph (1)* (“The new rule requires [court] approval
19 only if the claims, issues or defenses of a *certified* class are resolved by . . . voluntary dismissal.”)
20 (emphasis added).

21 WHEREAS, the Parties are not aware of any member of the alleged putative class who, in
22 reliance upon this action or otherwise, has refrained from bringing a claim identical or similar to
23 any of the claims in this action or who might be prejudiced by dismissal of this action by the
24 Court.

25 For the reasons set forth above and pursuant to the Federal Rules of Civil Procedure,
26 Rule 41(a)(1)(A)(ii), the Parties hereby jointly Stipulate to the dismissal with prejudice of
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Plaintiff's individual claims and the dismissal without prejudice of the alleged class action claims and request that the Court terminate all proceedings in this action.

The Parties shall bear their own costs and fees associated with this action and the dismissal.

IT IS SO STIPULATED

Dated: January 15, 2016

KELLER GROVER LLP

By: /s/ Eric A. Grover
Eric A. Grover
Attorneys for Plaintiff
ELIZABETH MEDDAUGH

Dated: January 15, 2016

WILSON TURNER KOSMO LLP

By: /s/ Frederick W. Kosmo, Jr.
Frederick W. Kosmo, Jr.
Attorneys for Defendant
LIVEWATCH SECURITY, LLC

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ORDER

This action is dismissed in its entirety pursuant to Rule 41(a)(1)(A)(ii). Plaintiff Meddaugh’s individual claims are dismissed with prejudice, and the claims of the putative class members are dismissed without prejudice. Plaintiff Meddaugh has not moved for class certification, a class has not been certified by the Court, and this dismissal does not resolve the claims, issues, or defenses of any putative or certified class. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, where a class has not been certified, Court approval is not required for dismissal. Fed. R. Civ. P. 23(e); *see also Advisory Committee Notes on 2003 Amendments to Rule 23, Subdivision (e), Paragraph (1)*. The Court hereby terminates all proceedings in this action.

The Parties shall bear their own costs and fees associated with this action and the dismissal.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: January 19, 2016



HON. MARIA ELENA JAMES
UNITED STATES MAGISTRATE JUDGE