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22 **UNITED STATES DISTRICT COURT**  
 23 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

24 DERIC WALINTUKAN, as an individual and on  
25 behalf of all others similarly situated,

26 Plaintiff,

27 v.

28 SBE ENTERTAINMENT GROUP, LLC, a  
 California limited liability company; 6021  
 HOLLYWOOD INVESTOR, LLC, a California  
 limited liability company; 6021 HOLLYWOOD  
 OPERATING COMPANY, LLC, a California  
 limited liability company; and SPOONFUL  
 MANAGEMENT LLC, a California limited  
 liability company,

Defendants.

Case No. 3:16-CV-01311-JST

**STIPULATION AND [PROPOSED] ORDER  
 SETTING SUMMARY-JUDGMENT/  
 ADJUDICATION BRIEFING AND  
 HEARING SCHEDULE**

Assigned to Hon. Jon S. Tigar

1 Plaintiff Deric Walintukan, on the one hand, and Defendants SBE Entertainment Group, LLC  
2 (“SBE”); 6021 Hollywood Investor, LLC (“6021 HI”); 6021 Hollywood Operating Company, LLC  
3 (“6021 HOC”); and Spoonful Management LLC (“Spoonful”), on the other hand, submit this Stipulation  
4 establishing a briefing and hearing schedule for their contemplated summary-judgment motion practice  
5 in the above-captioned action. The Stipulation is based on the following facts:

6 1. This action concerns a putative class-wide claim brought under the Telephone Consumer  
7 Protection Act (“TCPA”), 47 U.S.C. § 227, for text messages allegedly sent without proper consent.

8 2. On October 17, 2016, Plaintiff, on the one hand, and SBE, 6021 HI, and 6021 HOC filed  
9 a Joint Case Management Statement, wherein Plaintiff represented that he had identified a new party  
10 through discovery—Spoonful—that he intended to add as a defendant. (Further Joint Case Mgmt.  
11 Statement [ECF 39] at 2:16–17, 6:21–24.) The Joint Case Management Statement also advised that,  
12 during discovery, Plaintiff, SBE, 6021 HI, and 6021 HOC had identified a threshold issue directed to  
13 proper consent under the TCPA that they believed, in the interest of judicial economy, should be  
14 resolved by way of cross-motions for summary judgment, in advance of hearing Plaintiff’s motion for  
15 class certification. (Further Joint Case Mgmt. Statement at 3:10–23, 7:1–19.)

16 3. On October 20, 2016, the Court entered an Order setting a briefing schedule for  
17 Plaintiff’s Motion for Leave to Amend. (Order Setting Briefing Schedule & Hearing on Pl.’s Mot. to  
18 Amend [ECF 41] at 1:13–19.) That Order also vacated the filing deadline for Plaintiff’s class-  
19 certification motion—March 23, 2017—so that the parties could file cross-motions for summary  
20 judgment. (See Order Setting Briefing Schedule & Hearing on Pl.’s Mot. to Amend at 1:21–23.)

21 4. On February 15, 2017, the Court granted Plaintiff’s Motion for Leave to Amend. (See  
22 generally Order Granting Mot. for Leave to File First Am. Compl. [ECF 52].) Plaintiff timely filed his  
23 First Amended Complaint on February 16, 2017 (see generally First Am. Class-Action Compl. [ECF  
24 53]), and SBE, 6021 HI, 6021 HOC, and Spoonful timely filed Answers thereto on March 10, 2017 (see  
25 generally Defs.’ Answers to First Am. Compl. [ECF 58–61]).

26 6. In the continued interest of judicial economy, Plaintiff and Defendants believe that a  
27 briefing and hearing schedule should be set for their contemplated summary-judgment motion practice.  
28 In order to properly brief the identified threshold issue, the parties need to resolve certain matters

1 surrounding written discovery responses, as well as to schedule various depositions (including a likely  
2 third-party deposition). In addition, Defendants' counsel have indicated that they will be engaged in a  
3 three-week jury trial in August 2017, and Plaintiff's counsel will be engaged in a trial starting on  
4 September 12, 2017. In light of these scheduling matters, the parties propose the following schedule:

- 5 • September 29, 2017: Opening summary-judgment/adjudication moving papers  
6 due.
- 7 • October 31, 2017: Opposition summary-judgment/adjudication papers due.
- 8 • November 20, 2017: Reply summary-judgment/adjudication papers due.
- 9 • December 7, 2017, at 2:00 p.m. or such other date selected by the Court:  
10 Summary-judgment/adjudication hearing.
- 11 7. Trial in this action has not been set.

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1 Based on the foregoing, **IT IS HEREBY STIPULATED** that:

- 2 1. Opening summary-judgment/adjudication moving papers are due by September 29, 2017.  
3 2. Opposition summary-judgment/adjudication papers are due by October 31, 2017.  
4 3. Reply summary-judgment/adjudication papers are due by November 20, 2017.  
5 4. The summary-judgment/adjudication hearing shall take place at 2:00 p.m. on December  
6 7, 2017, at 2:00 p.m. or such other date selected by the Court.

7 **IT IS SO STIPULATED.**

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9 Dated: March 31, 2017

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15 Abigail A. Zelenski  
16 David Zelenski  
17 Attorneys for Plaintiff

18  
19 Dated: March 31, 2017

VENABLE LLP

20 \_\_\_\_\_  
/s/ Ari Rothman

21 Ari A. Rothman  
22 Witt W. Chang  
23 Attorneys for Defendants

24 \* \* \*

25  
26 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

27 Dated: April 5, 2017

28 \_\_\_\_\_  
  
Hon. Jon S. Tigar  
U.S. District Court Judge

\_\_\_\_\_  
<sup>1</sup> Pursuant to rule 5-1 of the Northern District of California's Local Rules, I hereby attest that concurrence in the filing of this document has been obtained from each of the signatories below.