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8 Attorneys for Plaintiff  
 Richard Wuest

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

11 RICHARD WUEST, individually and on  
 12 behalf of a class of similarly situated  
 individuals,  
 13  
 Plaintiff,  
 14 v.  
 15 COMPLETE RECOVERY CORPORATION;  
 and DOES 1 through 10, inclusive,  
 16  
 Defendants.

Case No: 3:17-CV-01674-JD

CLASS ACTION

**JOINT STIPULATION OF DISMISSAL  
 AND ~~PROPOSED~~ ORDER**

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

(Assigned to Hon. James Donato)

19 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff Richard Wuest  
 20 (“Plaintiff”) and Defendant Complete Recovery Corporation (“Defendant”), by and through their  
 21 respective undersigned counsel, hereby submit this Joint Stipulation of Dismissal and [Proposed]  
 22 Order, and stipulate and agree as follows:

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

25 WHEREAS, Plaintiff has not moved for class certification, and a class has not been  
 26 certified by the Court. The Parties’ stipulated dismissal of this action does not resolve the claims,  
 27 issues, or defenses of any putative or certified class. Under Rule 23(e) of the Federal Rules of  
 28 Civil Procedure, where a class has not been certified, Court approval is not required for dismissal.

1 Fed. R. Civ. P. 23(e) (court approval only required for dismissal of “the claims, issues, or defenses  
2 of a *certified* class”) (emphasis added); *see also Advisory Committee Notes on 2003 Amendments*  
3 *to Rule 23, Subdivision (e), Paragraph (1)* (“The new rule requires [court] approval only if the  
4 claims, issues or defenses of a *certified* class are resolved by . . . voluntary dismissal.”) (emphasis  
5 added).

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

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

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

15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

16  
17 Dated: May 22, 2017

**KELLER GROVER LLP**

18  
19 By: */s/ Eric A. Grover*

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ERIC A. GROVER

*Counsel for Plaintiff*  
RICHARD WUEST

*Pursuant to Local Rule 5-1(i)(3) I attest that all  
other signatories listed, and on whose behalf the  
filing is submitted, concur in the filing of this  
stipulation and have authorized the filing of this  
stipulation.*

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Dated: May 22, 2017

**KELLEY DRYE & WARREN LLP**

By: /s/ S. Spencer Elg

S. SPENCER ELG

*Attorneys for Defendant*

COMPLETE RECOVERY CORPORATION

**ORDER**

Pursuant to Stipulation, IT IS ORDERED that this case is dismissed with prejudice as to Plaintiff's individual claims and without prejudice as to the alleged class action claims. The Clerk shall close the case.



DATED: May 23, 2017

James Donato  
United States District Judge