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10 Attorneys for Defendants
 ShoreTel, Inc., Shane Robison, Don Joos,
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 Denman, Charles Kissner, Constance Skidmore
 12 and Josef Vejvoda

FENWICK & WEST LLP
 ATTORNEYS AT LAW
 SAN FRANCISCO

13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

17 JOSEPH MOZEE, Individually and on Behalf
 of All Others Similarly Situated,

18 Plaintiff,

19 v.

20 SHORETEL, INC., SHANE ROBISON, DON
 21 JOOS, MARJORIE BOWEN, MARK
 BREGMAN, KENNETH DENMAN,
 22 CHARLES KISSNER, CONSTANCE
 SKIDMORE, JOSEF VEJVODA, MITEL US
 23 HOLDINGS, INC., SHELBY ACQUISITION
 CORPORATION, and MITEL NETWORKS
 24 CORPORATION,

25 Defendants.

Case No.: 17-cv-4888-HSG

**STIPULATION AND ORDER
 VOLUNTARILY DISMISSING
 ACTION AS MOOT PURSUANT TO
 FED. R. CIV. P. 41(a)(1)(A)(ii)**

1 Disclosures, and have informed Defendants of their intention to petition the Court for such a fee if
2 their claim cannot be resolved through negotiations between counsel for Plaintiffs in the Actions
3 and Defendants (the “Fee Application”);

4 WHEREAS, for the sake of judicial economy and the convenience of all parties, counsel
5 for plaintiffs in all of the Actions have coordinated their efforts and intend to file any Fee
6 Application jointly in the Scarantino Action, which was the first-filed of the Actions;

7 WHEREAS, all of the Defendants in the Actions reserve all rights, arguments and
8 defenses, including the right to oppose any potential Fee Application and the right to dispute
9 which Court should address any Fee Application;

10 WHEREAS, no class has been certified in the Actions;

11 WHEREAS, for the avoidance of doubt, no compensation in any form has passed directly
12 or indirectly to Plaintiff Mozee or his attorneys and no promise, understanding, or agreement to
13 give any such compensation has been made, nor have the parties had any discussions concerning
14 the amount of any mootness fee application;

15 NOW, THEREFORE, subject to the approval of the Court, the parties stipulate and agree
16 as follows:

17 1. The Mozee Action is dismissed, all claims asserted therein are dismissed with
18 prejudice as to Plaintiff only, and all claims on behalf of the putative class are dismissed without
19 prejudice.

20 2. Because the dismissal is with prejudice as to Plaintiff only, and not on behalf of a
21 putative class, notice of this dismissal is not required.

22 3. If a Fee Application becomes necessary, Plaintiff Mozee’s counsel may seek a fee
23 by joining in the Fee Application to be filed in the Scarantino Action where the Court will retain
24 jurisdiction, as appropriate, for the Fee Application.

25 4. This Stipulation, and any Order thereon, are made without prejudice to any right,
26 position, claim or defense any party may assert with respect to the Fee Application, which
27 includes the Defendants’ right to oppose the Fee Application and the right to dispute which Court
28 should address any Fee Application.

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Dated: September 22, 2017

BRODSKY & SMITH, LLC

By /s/ Evan J. Smith
Evan J. Smith

Attorneys for Plaintiff Joseph Mozee

Dated: September 22, 2017

FENWICK & WEST LLP

By /s/ Kevin P. Muck
Kevin P. Muck

Attorneys for Defendants ShoreTel, Inc., Shane Robison, Don Joos, Marjorie Bowen, Mark Bregman, Kenneth Denman, Charles Kissner, Constance Skidmore and Josef Vejvoda

Dated: September 22, 2017

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

By /s/ Andrew Gordon
Andrew Gordon

Attorneys for Defendants Mitel US Holdings, Inc., Shelby Acquisition Corporation and Mitel Networks Corporation

* * *

Pursuant to Civil Local Rule 5-1(i)(3), all signatories concur in the filing of this stipulation.

Dated: September 22, 2017

/s/ Kevin P. Muck
Kevin P. Muck

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ORDER

Pursuant to the foregoing stipulation, IT IS HEREBY ORDERED that:

1. The Mozee Action is dismissed, all claims asserted therein are dismissed with prejudice as to Plaintiff only, and all claims on behalf of the putative class are dismissed without prejudice.

2. Because the dismissal is with prejudice as to Plaintiff only, and not on behalf of a putative class, notice of this dismissal is not required.

3. If a Fee Application becomes necessary, Plaintiff Mozee’s counsel may seek a fee by joining in the Fee Application to be filed in the Scarantino Action, where the Court will retain jurisdiction, as appropriate, for the Fee Application.

4. This Stipulation, and any Order thereon, are made without prejudice to any right, position, claim or defense any party may assert with respect to the Fee Application, which includes the Defendants’ right to oppose the Fee Application and the right to dispute which Court should address any Fee Application.

Dated: 9/22/2017


The Honorable Haywood S. Gilliam, Jr.
United States District Judge