

1 NORMAN B. BLUMENTHAL, SBN 068687  
 2 KYLE R. NORDREHAUG, SBN 205975  
 3 APARAJIT BHOWMIK, SBN 248066  
 4 RUCHIRA PIYA MUKHERJEE, SBN 274217  
 5 BLUMENTHAL, NORDREHAUG &  
 6 BHOWMIK  
 2255 Calle Clara  
 La Jolla, CA 92037  
 Tel: 858.551.1223  
 Fax: 858.551.1232  
 Website: www.bamlawca.com

REBECCA EISEN, SBN 96129  
 reisen@morganlewis.com  
 THERESA MAK, SBN 211435  
 tmak@morganlewis.com  
 ANDREW FREDERICK, SBN 284832  
 afrederick@morganlewis.com  
 MORGAN, LEWIS & BOCKIUS LLP  
 One Market, Spear Street Tower  
 San Francisco, California 94105-1126  
 Telephone: 415.442.1000  
 Facsimile: 415.442.1001

7 Attorneys for Plaintiff  
 8 CHRISTOPHER VALVERDE, JR.

Attorneys for Defendant  
 COGENT COMMUNICATIONS INC.

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION



12 CHRISTOPHER VALVERDE, JR.,  
 13 an individual, on behalf of himself, and on  
 behalf of all persons similarly situated,

Case No. 5:13-cv-00876-EJD 1/10/2014

14 Plaintiff,

**JOINT STIPULATION OF DISMISSAL**

15 v.

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

16 COGENT COMMUNICATIONS, INC.,  
 17 a Delaware corporation; and DOES 1 through  
 50, inclusive,

18 Defendants.

19  
 20 Plaintiff Christopher Valverde, Jr. (“Plaintiff”) and Defendant Cogent Communications,  
 21 Inc. (“Cogent” or “Defendant”) (collectively, “the Parties”), by and through their respective  
 22 counsel of record, enter into this Stipulation to dismiss all claims brought in the above-captioned  
 23 action. The Parties hereby stipulate and agree as follows:

24 WHEREAS, Plaintiff’s First Amended Complaint (“FAC”) alleges individual claims on  
 25 behalf of the named Plaintiff as well as class and representative claims;

26 WHEREAS, Plaintiff has decided to dismiss this action pursuant to Federal Rules of Civil  
 27 Procedure (“FRCP”) Rule 41(a)(1)(A)(ii);

28 WHEREAS, under FRCP Rule 23, Court approval of the dismissal of Plaintiff’s class

1 claims is not required because it is not a voluntary dismissal of “the claims, issues, or defenses of a  
2 *certified* class.” FRCP 23(e) (emphasis added); *see also* Advisory Committee Notes on 2003  
3 Amendments to Rule 23, Subdivision (e), Paragraph (1) (“[t]he new rule requires [court] approval  
4 only if the claims, issues or defenses of a *certified* class are resolved by ... voluntary dismissal”)  
5 (emphasis added);

6 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and through the  
7 Parties’ respective counsel, as follows:

- 8 1. Plaintiff’s individual claims are hereby dismissed with prejudice pursuant to FRCP  
9 Rule 41(a)(1)(A)(ii);
- 10 2. Plaintiff’s class action and representative action claims are hereby dismissed  
11 without prejudice to other aggrieved and/or putative class members, pursuant to  
12 FRCP Rule 41(a)(1)(A)(ii);
- 13 3. Plaintiff will not reassert or refile any class, collective, or representative action  
14 claims that were, or could have been, alleged in this action, including any claims  
15 under the Private Attorney General Act or the Fair Labor Standards Act; and
- 16 4. The Parties will each bear their own costs and fees with respect to the prosecution  
17 and defense of the claims asserted in the action. The Clerk shall close this file.

18 IT IS SO STIPULATED.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

