

1 KEVIN D. GAMARNIK (273445)
kgamarnik@foleybezek.com
2 FOLEY BEZEK BEHLE & CURTIS, LLP
3 575 Anton Boulevard, Suite 710
4 Costa Mesa, California 92626
5 Telephone: (714) 556-1700
6 Facsimile: (714) 546-5005

7 AARON L. ARNDT (290748)
aarndt@foleybezek.com
8 JORDAN A. LIEBMAN (317930)
liebman@foleybezek.com
9 FOLEY BEZEK BEHLE & CURTIS, LLP
10 15 West Carrillo Street
11 Santa Barbara, California 93101
12 Telephone: (805) 962-9495
13 Facsimile: (805) 962-0722

14 ATTORNEYS FOR PLAINTIFFS

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 TABITHA SPERRING, PAISLIE
18 MARCHANT, and SALLY
19 POSTON, individually and on behalf
20 of similarly situated persons,

21 Plaintiffs,

22 v.

23 LLR, INC., a Wyoming corporation;
24 LULAROE, LLC, a California
25 limited liability company; LENNON
26 LEASING, LLC, a Wyoming limited
27 liability company; MARK A.
28 STIDHAM, an individual; DEANNE
S. BRADY a/k/a DEANNE
STIDHAM, an individual; and DOES
1-30, inclusive,

Defendants.

Case No. 5:19-cv-00433-AB-SHK

*Assigned to Hon. Andre Birotte Jr.,
Ctrm 7B*

**PLAINTIFFS' NOTICE OF
MOTION AND MOTION FOR
AN ORDER DISMISSING THE
ACTION WITH PREJUDICE
UNDER FED. RULES. CIV.
PROC. § 41(a)(2)**

Date: September 27, 2019
Time: 10:00 a.m.
Ctrm: 7B

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that on September 27, 2019, at 10:00 a.m., or as
3 soon thereafter as counsel may be heard in Department 7B of the above-entitled
4 court, located at 350 West First Street, Los Angeles, California 90012, Plaintiffs
5 Tabitha Sperring, Paislie Marchant, and Sally Poston (collectively, “Plaintiffs”)
6 will, and hereby do, move the court to grant Plaintiffs’ request for a voluntary
7 dismissal with prejudice under Fed. R. Civ. P. 41(a)(2) so that Plaintiffs can
8 immediately appeal the Court’s July 23, 2019 Order granting Defendants’ Motion
9 to Compel Arbitration (“Order”).

10 Plaintiffs make this motion under Fed. R. Civ. P. 41(a)(2).

11 This motion is made following the conference of counsel pursuant to Local
12 Rule 7-3, which took place on August 13, 2019.

13 Plaintiffs’ motion is based on this Notice of Motion and Motion, the attached
14 Memorandum of Points and Authorities, the pleadings and papers on file in this
15 action, and on such other and further argument and evidence as the Court may
16 properly receive.

17
18 Dated: August 29, 2019

FOLEY BEZEK BEHLE & CURTIS, LLP

19
20 By: /s/ Kevin D. Gamarnik
21 KEVIN D. GAMARNIK
22 AARON L. ARNDT
23 JORDAN A. LIEBMAN
24 *Attorneys for Plaintiffs*
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

This case concerns a putative class action where former and current LuLaRoe Consultants are alleging, among other things, that Defendants¹ operate and promote an illegal pyramid scheme, violated state securities laws, and violated other statutes arising from allegedly fraudulent conduct.

On or about July 23, 2019, the Court granted Defendants’ Motion to Compel Arbitration, staying the action (“Order”).

In Plaintiffs’ view, the Order has so damaged their case that seeing their cases through the arbitration process would be a waste of resources for Plaintiffs. Among other things, arbitrating their claims will not be economically feasible and, in Plaintiffs’ view, the arbitration forum, waivers, and procedures mandated by the arbitration provision at issue are biased against Plaintiffs. Additionally, Plaintiffs wish to prosecute their claims on a class-wide basis and believe that the Order is fatal to such an action.

Consequently, in order for Plaintiffs to seek immediate appellate review of the Order, Plaintiffs request that the Court grant their request for a voluntary dismissal with prejudice under Fed. R. Civ. P. 41(a)(2). *See Omstead v. Dell, Inc.*, 594 F.3d 1081 (9th Cir. 2010) (providing that “a plaintiff that deems an interlocutory ruling to be so prejudicial as to deserve immediate review ... has the alternative of dismissing the complaint voluntarily [with prejudice]” by obtaining an order under Fed. R. Civ. P. 41(a)(2); *see also John's Insulation v. L. Addison & Assocs.* 156 F.3d 101, 107 (1st Cir. 1998).

///
///
///

¹ The term “Defendants” collectively refers to LLR, Inc., LuLaRoe, LLC, Lennon Leasing, LLC, Mark A. Stidham and Deanne S. Brady (a/k/a DeAnne Stidham). The term “Plaintiffs” collectively refers to Tabitha Sperring, Paislie Marchant, and Sally Poston.

1 Dated: August 29, 2019

FOLEY BEZEK BEHLE & CURTIS, LLP

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Kevin D. Gamarnik
KEVIN D. GAMARNIK
AARON L. ARNDT
JORDAN A. LIEBMAN
Attorneys for Plaintiffs