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8 *Attorneys for Defendant*
9 Mr. Ralph Heredia

10 **UNITED STATES DISTRICT COURT**
11
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
13 **(EASTERN DIVISION)**

14 Joseph Diaz, Jr.,

15 Plaintiff,

16 vs.

17 RALPH HEREDIA, true name RAFAEL
18 HEREDIA TARANGO, a/k/a RAFAEL
19 HEREDIA, a/k/a RAFAEL
20 BUSTAMANTE; JOHN DOE, ESQ.;
21 and JANE DOES 1 through 20,
inclusive,

22 Defendants.

Case No.: 5:20-cv-02332-JWH-KKx

**NOTICE OF MOTION AND
MOTION TO WITHDRAW
MOTION TO DISMISS (ECF NO.
23) AND MOTION TO COMPEL
ARBITRATION AND/OR STAY
THE PROCEEDINGS PENDING
ARBITRATION**

Date: March 12, 2021

Time: 9:00 a.m.

Courtroom: 2

Judge: Hon. John W. Holcomb

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NOTICE OF MOTION AND MOTION TO WITHDRAW MOTION TO DISMISS (ECF NO. 23) AND
MOTION TO COMPEL ARBITRATION AND/OR STAY THE PROCEEDINGS PENDING
ARBITRATION

TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN THAT on March 12, at 9:00 a.m., before the Honorable John W. Holcomb, in Courtroom 2 of the United States Courthouse for the Central District of California, Eastern Division, George E. Brown, Jr. Federal Building and United States Courthouse, 3470 12th St., Riverside, CA 92501, Defendant Ralph Heredia will and hereby does move the Court to withdraw Defendant Heredia's motion to dismiss (ECF No. 23) and move to compel arbitration and/or stay the proceedings pending arbitration.

This motion is made following the conference of counsel pursuant to Local Rule (L.R.) 7-3. Pursuant to Local Rule 7-3, on February 5, 2021 (more than five days prior to the last day for filing the motion) counsel for Defendant, Eric Montalvo e-mailed counsel for Plaintiff Alexander Safyan, to conduct a meet and confer concerning the intent to file the motion to compel arbitration or stay the proceedings pending arbitration. Plaintiff's counsel responded his client would not consent to a motion to stay the proceedings pending arbitration. As such, counsels were unable to reach a resolution for the motion.

As set forth in the accompanying Memorandum of Points and Authorities, there is good cause for the relief requested.

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ARBITRATION

1 This Motion is based on this Notice of Motion and Motion; the
2 accompanying Memorandum of Points and Authorities; the pleadings and papers
3 filed in this action; and such further argument and matters as may be offered at the
4 time of the hearing of this motion.

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6 Dated: February 5, 2021

Respectfully submitted,

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8 /s/ Rajan O. Dhungana

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13 /s/ Eric S. Montalvo

14 Eric S. Montalvo (*Appearing Pro Hac Vice*)

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19 Ralph Heredia
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