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16 **UNITED STATES DISTRICT COURT**  
17 **EASTERN DISTRICT OF CALIFORNIA**  
18 **FRESNO DIVISION**

19 **CYNTHIA HOPSON,**  
20 **PLAINTIFF,**  
21 **v.**  
22 **C.C. BAR LIMITED LIABILITY**  
23 **COMPANY, and DOES 1-10, inclusive,**  
24 **DEFENDANTS.**

Case No.: 1:16cv-00992- SKO

**STIPULATED DISMISSAL WITH  
PREJUDICE; ORDER**

[Fed. R. Civ. P. 41]

25 **IT IS HEREBY STIPULATED** by and between the parties in this action through their  
26 designated counsel, that this action be and is hereby dismissed in its entirety, **WITH PREJUDICE**,  
27 pursuant to Federal Rules of Civil Procedure 41(a)(1). The parties shall bear their own costs and  
28 attorney fees in connection with the lawsuit and the negotiation and preparation of any agreement  
entered into by such parties.

Date: November 8th, 2016.

/s/Daniel Malakauskas

By: Daniel Malakauskas,  
Attorney for Plaintiff

1 Dated: November 8th, 2016

/s/Diane E. Coderniz

2 By: Diane E. Coderniz, of,  
3 BAKER, MANOCK & JENSEN, P.C.,  
4 Attorneys for Defendant

5 **ORDER**

6 On November 27, 2016, the parties filed the above stipulation requesting that the present  
7 action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1), with each  
8 party to bear its own costs, expenses, and attorney's fees.

9 In relevant part, Rule 41(a)(1)(A) provides as follows:

10 [A] plaintiff may dismiss an action without a court order by filing: (i) a notice of  
11 dismissal before the opposing party serves either an answer or a motion for summary  
12 judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

13 Fed. R. Civ. P. 41(a)(1)(A). Rule 41 thus allows the parties to dismiss an action voluntarily, after  
14 service of an answer, by filing a written stipulation to dismiss signed by all of the parties who have  
15 appeared, although an oral stipulation in open court will also suffice. *See Eitel v. McCool*, 782 F.2d  
16 1470, 1472-73 (9th Cir. 1986).

17 Once the stipulation between the parties who have appeared is properly filed or made in open  
18 court, no order of the court is necessary to effectuate dismissal. Case law concerning stipulated  
19 dismissals under Rule 41(a)(1)(A)(ii) is clear that the entry of such a stipulation of dismissal is  
20 effective automatically and does not require judicial approval. *Commercial Space Mgmt. Co. v.*  
21 *Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999). Because the parties have filed a stipulation for  
22 dismissal of this case with prejudice under Rule 41(a)(1)(A)(ii) that is signed by all parties who have  
23 made an appearance, this case has terminated. Fed. R. Civ. P. 41(a)(1)(A)(ii).

24 Accordingly IT IS HEREBY ORDERED that the Clerk of the Court is to close this case.

25 IT IS SO ORDERED.

26 Dated: November 29, 2016

/s/ Sheila K. Oberle  
27 UNITED STATES MAGISTRATE JUDGE  
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