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 8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA
 10

11 GEORGE CLINTON, an individual,
 12 Plaintiff,
 13 v.
 14 WILL ADAMS, p/k/a will.i.am,
 15 individually, et al.,
 16 Defendants.

Case No. CV 10-09476 ODW (PLAx)
 The Honorable Otis D. Wright, II

**JOINT EX PARTE
 APPLICATION TO APPROVE
 SETTLEMENT AGREEMENT
 AND DISMISS THE ACTION
 UNDER FED.R.CIV.P 41(a)**

Action Filed: December 10, 2010

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 20 In accordance with the Court’s Order dated May 18, 2012 (D/E 113), the
 21 parties reiterate that they have settled and resolved all remaining issues, claims,
 22 and demands in the action and wish to voluntarily dismiss the action under
 23 Fed.R.Civ.P. 41(a), with prejudice and without costs or attorneys’ fees to any
 24 party. The parties reached a settlement through a mediation conducted by Gail
 25 Killefer of the Court’s Mediation Office starting on April 27, 2012 and
 26 culminating on May 11, 2012. The mediation resulted in a voluntary resolution
 27 of the action by all remaining named parties and, as is typical and customary, the
 28 named parties agree to the dismissal of the claims in the action with prejudice.

1 Regrettably, and in specific response to the Court’s Show Cause Order
2 dated May 18, 2012, the named parties are uniform in the desire to dismiss the
3 action and have agreed upon the language of the Stipulation for Dismissal
4 attached at Exhibit A hereto for submission to this Court. However, the formal
5 dismissal of the action is complicated by the existence of two separate liens filed
6 and recorded in this action involving the Plaintiff, George Clinton (hereinafter
7 “Mr. Clinton”). More particularly, these lien filings are identified as:

8 (1) The January 3, 2011 lien (D/E 9) under California Code of Civil
9 Procedure Section 708.410 *et seq.*, relating to a judgment lien filed by
10 Hendricks & Lewis, PLLC (hereinafter “H&L” and “the H&L lien”).
11 The H&L lien is attached hereto as Exhibit B. The H&L lien reflects
12 H&L’s status as a judgment creditor by virtue of a judgment from the
13 U.S. District Court for the Western District of Washington. Prior to
14 filing the January 3, 2011 lien in this action, H&L filed Hendricks &
15 Lewis PLLC v. George Clinton, Case No. CV10-09921 ODW (PLAx),
16 a separate action also assigned to the Honorable Otis D. Wright, II.
17 This separate action involves the same lien at D/E 9 in this case and the
18 same registered judgment from the Western District of Washington.
19 George Clinton is both the Plaintiff in this action and the Defendant in
20 Case No. 10-09921; and

21 (2) The July 19, 2011 lien (D/E 43) filed by Plaintiff’s former counsel in
22 this action, Allan Law Group, PC (herein after “ALGPAC” and “the
23 ALGPC lien) claiming attorney’ fees and costs in the amount
24 \$107,097.67, apparently for different legal matters, a portion of which
25 may involve this action, but without specification or any underlying
26 representation agreement between ALGPAC and Mr. Clinton. The
27 ALGPAC lien is attached hereto as Exhibit C

1 Subsequent to the voluntary resolution of this action by the named parties,
2 Plaintiff's undersigned counsel provided both lienholders, H&L and ALGPC,
3 with a copy of the parties proposed Settlement Agreement and asked to initiate a
4 dialogue to address the liens in an agreed-upon manner. Specifically, Plaintiff's
5 undersigned counsel expressed the following to both lienholders in writing: "It is
6 my hope that we will be able to reach an agreement as to the disposition of these
7 funds and avoid further motion practice." Plaintiff's undersigned counsel further
8 states that ALGPAC responded by re-asserting its entitlement to the entirety of
9 the \$107,097.67 lien amount while no direct or specific response has been
10 received from H&L's counsel to date¹.

11 In view of this Court's May 18, 2012 Order at D/E 113, and the parties
12 mutual desire to relieve the named Defendants of further obligations now that the
13 "main" case has been resolved, the parties submit that the present action can now
14 be dismissed under Fed.R.Civ.P. 41(a), while the "ancillary" issue of the
15 disposition of the settlement funds between the Plaintiff and the H&L ALGPAC
16 lienholders may be decided by this Court as a form of "supplementary
17 proceedings" within the meaning of Fed.R.Civ.P. 69(a).

18 In accordance with this Court's practice guidelines, it is submitted that
19 adequate grounds exist for an Ex Parte Application since the only reason why the
20 action has not been dismissed is because the January 3, 2011 H&L lien at D/E 9
21 states that no settlement may be entered without either: "(a) the prior approval by
22 order of the court in this action or proceeding has been obtained; (b) the written
23 consent of the person named in item 4 (i.e. H&L); or (c) the money judgment of
24 the person named in item 4 (i.e. H&L) has been satisfied." D/E 9, page 1 of 6.

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27 ¹ However, the Court is asked to take judicial notice that H&L recently filed yet
28 another creditor action against Mr. Clinton in the U.S. District Court for the
Western District of Washington on April 20, 2012. See Case No. 12-CV-00841
at Exhibit D where H&L is pursuing a debtor examination against Mr. Clinton.

1 As neither lienholder has provided its consent and neither lien has been
2 satisfied, the named parties seek the approval of this Court to settle and dismiss
3 the present action. Such approval is warranted. The Court is familiar with the
4 status of this action. The settlement was negotiated with the diligent and
5 continued assistance of the Court's Mediation Office, and the parties believe that
6 the settlement is fair and reasonable. The present action was filed on December
7 10, 2010, and the proceedings have included discovery, contested motions
8 including motions for partial summary judgment, and the addition of substituted
9 attorneys for each of the main parties. The parties negotiated the settlement in
10 view of the status of this action, the amounts at issue, and the expenditure of time
11 and money necessary to continue to litigate this action. The two lienholders
12 (H&L and ALGPAC) will not be prejudiced by entry of the order requested since
13 the settlement funds will not be disbursed until their agreement or further order of
14 the Court. Rather, both lienholders will have full and fair opportunity to assert
15 the validity of their respective claims and demands vis-a-vis each other and the
16 Plaintiff in the separate and accompanying Plaintiff's motion for division and
17 distribution of settlement funds to be filed under seal. It is submitted that issue
18 can readily be decided in an ancillary or "supplementary proceeding" after this
19 action is dismissed.

20 In contrast, the point of this Joint Ex Parte Application is to relieve the
21 named Defendants from any further involvement and expenditure in this matter.
22 However, Plaintiff acknowledges that it will have a continuing obligation to
23 engage in further proceedings with the two (2) lienholders under at least
24 Fed.R.Civ.P. 69(a)(1) to resolve competing claims and liens involving the
25 settlement funds. For that reason, the proposed order provides that Defendants
26 will disburse the settlement funds only in accordance with any Court order or
27 agreement between Plaintiff and the H&L lien holders. Defendants take no
28 position with respect to the appropriate disposition of the settlement funds.

1 Finally, in an effort to bring final closure to this action, Plaintiff requests
2 that, after approval of the settlement and dismissal of the action as proposed in the
3 Stipulated Dismissal at Exhibit A hereto, the Court consider addressing the two
4 liens at D/E 9 and D/E 43 in the following manner:

- 5 1. To the extent that the Court agrees that the disposition of the two (2)
6 separate liens and administration of the settlement funds falls within the
7 Court's supplemental jurisdiction, Plaintiff is filing concurrently the
8 accompanying "Motion For Distribution And Division Of Settlement
9 Funds", under seal, which outlines the known competing liens and
10 claims to the settlement funds and to which the Court may consider
11 allowing the lienholder(s) to respond prior to final disposition by the
12 Court.

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23 May 31, 2012

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42 May 31, 2012

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CERTIFICATE OF SERVICE

I, hereby certify that on May 31, 2012, I electronically filed the foregoing paper(s) with the Clerk of the Court using the ECF System which will send notification of such filing to all counsel of record.

/s/Jeffrey P. Thennisch
Jeffrey P. Thennisch, Attorney for Plaintiff
George Clinton

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