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5 Chapter 7 Trustee
6 For the Bankruptcy Estate of
7 LARRY BOECKEN, Debtor
8 And Plaintiff

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16 Attorneys for Defendant
17 GALLO GLASS COMPANY

18 UNITED STATES DISTRICT COURT
19 EASTERN DISTRICT OF CALIFORNIA

20 LARRY BOECKEN, JR.,
21 Plaintiff,

22 v.

23 GALLO GLASS COMPANY, and
24 DOES 1 THROUGH 50,
25 INCLUSIVE,
26 Defendant.

CASE NO. 1:05-CV-00090 LJO BAM

**STIPULATION AND ORDER TO DISMISS
ENTIRE ACTION WITH PREJUDICE**

Judge: Hon. Lawrence J. O'Neill

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WHEREAS, this lawsuit was filed in November 2004. On August 21, 2008, Plaintiff filed a Voluntary Petition for bankruptcy under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of California, Case No. 08-15050-B-7. This lawsuit and the claims therein were not listed in Plaintiff's sworn Statement of Financial Affairs, filed with the Bankruptcy Court or any other filing with the Bankruptcy Court while his Petition was pending;

WHEREAS, on or about December 30, 2008, the United States Bankruptcy Court granted Plaintiff a discharge under section 727 of title 11, United States Code;

WHEREAS, Defendant discovered Plaintiff's Voluntary Petition for bankruptcy when it retained new counsel in this case in May 2011 and brought this Petition to the attention of counsel for Plaintiff and this Court;

WHEREAS, on May 27, 2011, the United States Bankruptcy Court for the Eastern District of California reopened Plaintiff Larry Boecken, Jr.'s Chapter 7 bankruptcy, No. 08-15050-B-7, and ordered that amended schedules be served on the U.S. Trustee within 30 days along with a declaration from Plaintiff explaining why the asset was omitted from his original schedules. The order further provided that the U.S. Trustee thereafter may have 30 days to appoint a Chapter 7 trustee if necessary to investigate and administer the omitted asset.

WHEREAS, on June 28, 2011, the U.S. Trustee appointed James Salven as the Chapter 7 Trustee for the Bankruptcy Estate of Larry Boecken, Debtor;

WHEREAS, on May 29, 2012, the Honorable Richard Lee, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of California, entered the ORDER APPROVING COMPROMISE OF CONTROVERSY BETWEEN BANKRUPTCY

1 ESTATE OF DEBTOR AND GALLO GLASS COMPANY in Case No. 08-15050-B-7, a copy
2 of which is attached as Exhibit 1.

3 NOW, THEREFORE, James E. Salven, Chapter 7 Trustee for the Bankruptcy
4 Estate of Larry Boecken, Debtor, and Defendant Gallo Glass Company hereby stipulate that this
5 action be dismissed in its entirety with prejudice, with each party to bear its own costs and
6 attorneys' fees.

7 Dated: May 30, 2012

JAMES E. SALVEN

8
9 By:

10 _____
11 James E. Salven
12 Chapter 7 Trustee
13 For the Bankruptcy Estate of
14 LARRY BOECKEN, Debtor
15 And Plaintiff

16 Dated: May 30, 2012

PAUL HASTINGS LLP

17 By: /s/ Nancy L. Abell

18 _____
19 Nancy L. Abell
20 Counsel for Defendant
21 Gallo Glass Company

22 **ORDER**

23 IT IS HEREBY ORDERED, ADJUDGED AND DEGREED THAT, in
24 accordance with the May 29, 2012 ORDER APPROVING COMPROMISE OF
25 CONTROVERSY BETWEEN BANKRUPTCY ESTATE OF DEBTOR AND GALLO GLASS
26 COMPANY, entered by the United States Bankruptcy Court for the Eastern District of California,
27 in Case No. 08-15050-B-7, the Bankruptcy Estate of Larry Boecken, Debtor, and the stipulation
28 of the real parties in interest, this action is hereby dismissed in its entirety with prejudice. Each
party shall bear its own attorneys' fees and costs.

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This Court VACATES all pending dates and matters, including the June 21, 2012 hearing on the motion for leave to file summary judgment motion. The clerk is directed to close this action.

IT IS SO ORDERED.

Dated: May 31, 2012

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE