

1 Jerry N. Budin
2 State Bar #88539
3 Law Office of Jerry Budin
4 2401 E. Orangeburg Ave., Ste. 675-309
5 Modesto, California 95355
6 Telephone: (209) 544-3030
7 Facsimile: (209) 544-3144

5 || Attorney for Plaintiff,
MICHAEL HAHKA

6

7

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
(Fresno Division)

12 MICHAEL HAHKA,) CASE NO. 1:08-CV-0698-LJO-SMS
13 Plaintiff,)
14 vs.) STIPULATION FOR DISMISSAL WITH
15 DAIRYLAND MILK TRANSPORT,) PREJUDICE; ORDER
LLC, et al.,)
16 Defendants.)
17 _____)

19 IT IS HEREBY STIPULATED by and between the named plaintiff MICHAEL HAHKA,
20 through his counsel, and defendants DAIRYLAND MILK TRANSPORT, LLC, and WESTERN
21 MILK TRANSPORT CO., LLC, through their counsel, that the above-captioned action against these
22 defendants be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1).

23 This stipulation is based on the fact that the named plaintiff is entering into a settlement with
24 defendants prior to certification of any classes with respect to the defendants. Under the text of
25 F.R.C.P. Rule 23(e), adopted in 2003, such a settlement does not require court approval:

[P]rior to certification, the named plaintiffs may dismiss class claims without court approval. The named plaintiffs may settle or voluntarily dismiss their own claims just as in an individual action...in which case the class claims would have to be dismissed as well. Rule 23(e) does not provide the District Courts with any supervisory authority over such dismissals, nor does it require notice

to the absent class members. 5 Moore's Federal Practice (3d Ed. 2005), §23.64(2)(a), p. 23-315.

See also F.R.C.P. 23, Advisory Committee Note of 2003 (“The new rule requires approval only if the claims, issues or defenses of a certified class are resolved by settlement, voluntary dismissal or compromise.”)(Emphasis added).

DATED: September 10, 2009

LAW OFFICE OF JERRY BUDIN

/s/ Jerry Budin

Jerry Budin
Attorney for Plaintiff,
Michael Hahka

DATED: September 10, 2009

SAGASER, JONES & HELSLEY

/s/ Tracie L. Goodwin
Tracie L. Goodwin
Attorneys for Defendants,
Dairyland Milk Transport Co.,LLC and
Western Milk

Transport Co., LLC

ORDER

Based on the foregoing and good cause appearing therefrom,

IT IS HEREBY ORDERED that this matter be and is hereby dismissed with prejudice as to defendants Dairyland Milk Transport Co., LLC and Western Milk Transport Co., LLC. This case is closed.

IT IS SO ORDERED.

Dated: September 11, 2009

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