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8 **IN THE UNITED STATES DISTRICT COURT FOR THE**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 RONALD DEAN MOORE,) NO. 1:09-CV-02171 AWI GSA
11)
12 Plaintiff,) ORDER CLOSING CASE IN
13 v.) LIGHT OF STIPULATION FOR
14 ME-N-ED'S PIZZERIAS, INC., aka) DISMISSAL WITH PREJUDICE
15 MILANO RESTAURANTS)
16 INTERNATIONAL CORP., et al.,)
Defendants.)
_____)

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18 On June 8, 2010, the parties filed a stipulation of voluntary dismissal with prejudice of
19 this matter pursuant to Federal Rule of Civil Procedure 41(a)(1)(A).

20 Rule 41(a)(1)(A), in relevant part, reads:

21 the plaintiff may dismiss an action without a court order by filing: (i) a notice of
22 dismissal before the opposing party serves either an answer or a motion for
23 summary judgment; (ii) a stipulated dismissal signed by all parties who have
appeared.

24 Rule 41(a)(1)(A)(ii) thus allows the parties to dismiss an action voluntarily, after service of an
25 answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared,
26 although an oral stipulation in open court will also suffice. Carter v. Beverly Hills Sav. & Loan
27 Asso., 884 F.2d 1186, 1191 (9th Cir. 1989); Eitel v. McCool, 782 F.2d 1470, 1472-73 (9th Cir.
28 1986). Once the stipulation between the parties who have appeared is properly filed or made in

1 open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro.
2 41(a)(1)(ii); Eitel, 782 F.2d at 1473 n.4. “Caselaw concerning stipulated dismissals under Rule
3 41(a) (1) (ii) is clear that the entry of such a stipulation of dismissal is effective automatically and
4 does not require judicial approval.” In re Wolf, 842 F.2d 464, 466 (D.C. Cir. 1989); Gardiner v.
5 A.H. Robins Co., 747 F.2d 1180, 1189 (8th Cir. 1984); see also Gambale v. Deutsche Bank AG,
6 377 F.3d 133, 139 (2d Cir. 2004); Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d 1074,
7 1077 (9th Cir. 1999) cf. Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)
8 (addressing Rule 41(a)(1) dismissals). “The plaintiff may dismiss some or all of the defendants,
9 or some or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically
10 terminates the action as to the defendants who are the subjects of the notice.” Wilson, 111 F.3d
11 at 692; Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995).

12 Because the parties have filed a stipulation for dismissal of this case with prejudice under
13 Rule 41(a)(1)(A)(ii) that is signed by all parties who have made an appearance, this case has
14 terminated. See Fed. R. Civ. Pro. 41(a)(1)(A)(ii); In re Wolf, 842 F.2d at 466; Gardiner, 747
15 F.2d at 1189; see also Gambale, 377 F.3d at 139; Commercial Space Mgmt, 193 F.3d at 1077; cf.
16 Wilson, 111 F.3d at 692.

17 Therefore, IT IS HEREBY ORDERED that the Clerk is ordered to close this case in light
18 of the filed and properly signed Rule 41(a)(1)(A)(ii) Stipulation Of Dismissal With Prejudice.
19 Each party shall bear its own costs and attorneys’ fees.

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21 IT IS SO ORDERED.

22 **Dated: June 8, 2010**

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE