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

**J.E. HIGGINS LUMBER COMPANY, a)
California corporation,)
)
Plaintiff,)
)
v.)
)
CORY G. HICKS AND ASSOCIATES,)
INC.; ZACK SMITH, an individual; and)
DOES 1 through 25, inclusive,)
)
Defendants.)**

**1:10-CV-1760 AWI DLB
ORDER CLOSING CASE IN
LIGHT OF STIPULATION
FOR DISMISSAL WITH
PREJUDICE**

On December 10, 2010, the parties filed a stipulation of voluntary dismissal with prejudice of this matter pursuant to Federal Rule of Civil Procedure 41(a)(1)(A).

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

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

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

1 1986). Once the stipulation between the parties who have appeared is properly filed or made in
2 open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro.
3 41(a)(1)(ii); Eitel, 782 F.2d at 1473 n.4.

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

9 Therefore, IT IS HEREBY ORDERED that the Clerk of the Court is ordered to close this
10 case in light of the filed and properly signed Rule 41(a)(1)(A)(ii) Stipulation Of Dismissal With
11 Prejudice.

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13 IT IS SO ORDERED.

14 Dated: December 14, 2010


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16 CHIEF UNITED STATES DISTRICT JUDGE
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