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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

JAMES B. TUCK ENTERPRISES, INC. dba TOY HAULER LIQUIDATORS,

Plaintiff,

v.

PAUL EVERT RV COUNTRY, a California Partnership; PAUL EVERT, an individual,

Defendants.

Case No. 1:12-CV-01021-AWI-BAM

REQUEST FOR DISMISSAL WITH PREJUDICE [Rule 41(a)(1)]

Plaintiff JAMES B. TUCK ENTERPRISES, INC. dba TOY HAULER LIQUIDATORS, by and through their counsel of record and Defendants PAUL EVERT RV COUNTRY, a California partnership, PAUL EVERT, an individual by and through their attorneys of record, and pursuant to Federal Rules of Civil Procedure, Rule 41(a)(1), do hereby dismiss the within action in its entirety with prejudice. Each party to bear it's own attorneys' fees and costs of suit incurred.

Dated: October 31, 2012 McCORMICK, BARSTOW, SHEPPARD, WAYTE & CARRUTH LLP

By: /s/ David L. Emerzian
David L. Emerzian
Attorneys for James B. Tuck dba Toy Hauler
Liquidators

Dated: October 31, 2012 VITALE & LOWE

By: /a/ Alan W. Foutz
Alan W. Foutz
Attorneys for Paul Evert Rv Country & Paul Evert,
an individual

ORDER

Pursuant to the above notice of Rule 41(a)(1) dismissal with prejudice, this case terminated automatically. <u>Duke Energy Trading & Mktg., LLC v. Davis</u>, 267 F.3d 1042, 1049 (9th Cir. 2001). The Clerk shall close this case.

IT IS SO ORDERED.

Dated: November 2, 2012

UNITED STATES DISTRICT JUDGE