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

STEVEN ARIZAGA,

Plaintiff,

v.

**JOHN BEAN TECHNOLOGIES
CORPORATION, et al.,**

Defendants.

1:13-cv-01981 MJS HC
**VOLUNTARY DISMISSAL OF ACTION
(ECF No. 71)**

On September 7, 2016, the parties filed a stipulation for dismissal of this case with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1). The notice is signed by all remaining parties who have appeared in this case.

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

(A) . . . 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; or (ii) a stipulation of dismissal signed by all parties who have appeared. . . . (B) Unless the notice or stipulation states otherwise, the dismissal is without prejudice.

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. See

1 Carter v. Beverly Hills Sav. & Loan Asso., 884 F.2d 1186, 1191 (9th Cir. 1989); Eitel v.
2 McCool, 782 F.2d 1470, 1472-73 (9th Cir. 1986). Once the stipulation between the
3 parties who have appeared is properly filed or made in open court, no order of the court
4 is necessary to effectuate dismissal. Fed. R. Civ. Pro. 41(a)(1)(A); Eitel, 782 F.2d at
5 1473 n.4. "Caselaw concerning stipulated dismissals under Rule 41(a) (1) (ii) is clear
6 that the entry of such a stipulation of dismissal is effective automatically and does not
7 require judicial approval." In re Wolf, 842 F.2d 464, 466, 268 U.S. App. D.C. 468 (D.C.
8 Cir. 1989); Gardiner v. A.H. Robins Co., 747 F.2d 1180, 1189 (8th Cir. 1984); see also
9 Gambale v. Deutsche Bank AG, 377 F.3d 133, 139 (2d Cir. 2004); Commercial Space
10 Mgmt. Co. v. Boeing Co., 193 F.3d 1074, 1077 (9th Cir. 1999) cf. Wilson v. City of San
11 Jose, 111 F.3d 688, 692 (9th Cir. 1997) (addressing Rule 41(a)(1)(i) dismissals).

12 As the parties have signed and filed a stipulation for dismissal of this case with
13 prejudice under Rule 41(a)(1), this case is terminated. See Fed. R. Civ. Pro.
14 41(a)(1)(A)(ii).

15 Therefore, IT IS HEREBY ORDERED that the Clerk is to CLOSE this case in light
16 of the parties' filed and properly signed Rule 41(a)(1)(A)(ii) Stipulation Of Dismissal with
17 prejudice.

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19 IT IS SO ORDERED.

20 Dated: September 12, 2016

/s/ Michael J. Seng
21 UNITED STATES MAGISTRATE JUDGE
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