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3 **UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF CALIFORNIA**

5 ATAIN SPECIALTY INSURANCE)
6 COMPANY,)

7 Plaintiff,)

8 vs.)

9)
10 HARVEY ISOM dba FAR WEST)
11 PLUMBING, CENTURY BUILDERS, LLC, a)
12 California limited liability company,)
13 CENTURY DEVELOPERS, LLC, a California)
14 limited liability company, NIBCO, INC., a)
15 foreign corporation licensed to do business in)
16 the State of California,)

17 Defendants.)

No. 1:14-cv-1336---BAM

**ORDER DIRECTING THE CLERK OF
COURT TO ADMINISTRATIVELY
CLOSE CASE**

17 On January 13, 2015, Plaintiff filed a joint stipulation of voluntary dismissal, with
18 prejudice, signed by all parties to this action. (Doc. 19). Federal Rule of Civil Procedure
19 41(a)(1)(A), in relevant part, provides:

20 [A] plaintiff may dismiss an action with a court order by filing: (i) a notice of
21 dismissal before the opposing party serves either an answer or a motion for
22 summary judgment; or (ii) a stipulation of dismissal signed by all parties who
23 have appeared.

24 Fed. R. Civ. P. 41(a)(1)(A).

25 Rule 41(a)(1)(B) further provides that a dismissal pursuant to Rule 41(a)(1)(A) is
26 without prejudice “[u]nless the notice or stipulation states otherwise.” Rule 41(a)(1)(A)(ii)
27 thus allows a plaintiff to voluntarily dismiss an action with prejudice by filing a written
28 stipulation to that effect signed by all parties who have appeared in the action. Such a

1 stipulation of dismissal is self-executing and does not require an order of the court to effectuate
2 dismissal. *Eitel v. McCool*, 782 F.2d 1470, 147 (9th Cir. 1986) (Rule 41(a)(1) provides for
3 dismissal by the plaintiff without order of the court by filing a stipulation of dismissal signed
4 by all parties who have appeared in the action); *DeLeon v. Marcos*, 659 F.3d 1276, 1283 (10th
5 Cir. 2011) (“A stipulation of dismissal under Rule 41(a)(1)(A)(i) or (ii) is self-executing and
6 immediately strips the district court of jurisdiction over the merits.”); *In re Wolf*, 842 F.2d 464,
7 466 (D.C. Cir. 1989) (“[c]aselaw concerning stipulated dismissals under Rule 41(a)(1)(ii) is
8 clear that the entry of such a stipulation of dismissal is effective automatically and does not
9 require judicial approval”) (parentheses in original) (citation omitted); *Casida v. Sears Holding*
10 *Corp.*, No. 1:11-cv-1052-AWI-JLT, 2013 WL 1314051, at *1 (E.D. Cal. April 1, 2013) (the
11 filing of stipulation for dismissal with prejudice pursuant to Rule 41(a)(1)(A)(ii) terminates the
12 action).

15 Given that Plaintiff has filed a stipulation for dismissal with prejudice signed by all
16 parties to this action, this case is terminated. Accordingly, the Clerk of the Court is
17 ORDERED to ADMINISTRATIVELY close this case.
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20 IT IS SO ORDERED.

21 Dated: January 14, 2015

22 /s/ Barbara A. McAuliffe
23 UNITED STATES MAGISTRATE JUDGE
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