

1
2
3
4 **UNITED STATES DISTRICT COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
6

7 MARISOL GOMEZ and IGNACIO
8 OSORIO, on themselves and all others
9 similarly situated,

10 Plaintiff,

11 v.

12 J. JACOBO FARM LABOR
13 CONTRACTOR, INC. and BEDROSIAN
14 FARMS LLC,

Defendants.

CASE NO. 1:15-cv-01489-AWI-BAM

**ORDER DISMISSING BEDROSIAN
FARMS LLC WITH PREJUDICE AND
ON MOTION FOR SUMMARY
JUDGMENT**

(Doc. Nos. 91, 94, 96, 97)

15 On August 30, 2018, Plaintiffs Marisol Gomez and Ignacio Osorio filed a stipulation of
16 dismissal with prejudice against Defendant Bedrosian Farms LLC (“Bedrosian”) pursuant to Fed.
17 R. Civ. P. 41(a)(1)(A)(ii). See Doc. No. 97. Rule 41(a)(1), in relevant part, reads:

18 (A) . . . the plaintiff may dismiss an action without a court order by filing: (i) a
19 notice of dismissal before the opposing party serves either an answer or a motion
20 for summary judgment; or (ii) a stipulation of dismissal signed by all parties who
21 have appeared. . . . (B) Unless the notice or stipulation states otherwise, the
22 dismissal is without prejudice.

23 Dismissals under Rule 41(a)(1)(A), when properly filed, are effective immediately and do
24 not require a court order/court approval. See Fed. R. Civ. P. 41(a)(1); Yesh Music v. Lakewood
25 Church, 727 F.3d 356, 362 (5th Cir. 2013); Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d
26 1074, 1077 (9th Cir. 1999); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997); In re
27 Wolf, 842 F.2d 464, 466 (D.C. Cir. 1989).

28 Here, Bedrosian has appeared in this action, see Doc. No. 7, and the stipulation of
dismissal against Bedrosian is signed by representatives for all parties. See Doc. No. 97.
Accordingly, the instant action has terminated automatically against Bedrosian. See Fed. R. Civ.

1 P. 41(a)(1)(A); Yesh Music, 727 F.3d at 362; Commercial Space, 193 F.3d at 1077. The Court
2 will order the Clerk to dismiss Bedrosian.

3 Before Plaintiffs filed the stipulation of dismissal against Bedrosian, Bedrosian and Gomez
4 filed competing motions. Bedrosian filed a motion for summary judgment pursuant to Fed. R.
5 Civ. P. 56, which asked the Court to grant summary judgment in favor of Bedrosian on all claims
6 pleaded in Gomez's original complaint. See Doc. No. 91. Gomez then filed a motion to continue
7 or deny Bedrosian's motion for summary judgment pursuant to Fed. R. Civ. P. 56(d). See Doc.
8 No. 94. Both motions are currently before the Court.

9 Additionally, prior to the filing of the stipulation of dismissal against Bedrosian, the Court
10 ordered Bedrosian and Defendant J. Jacobo Farm Labor Contractor, Inc. ("Jacobo") to file an
11 opposition or notice of non-opposition to Gomez's Rule 56(d) motion. See Doc. No. 96.

12 Because this action against Bedrosian has terminated, Bedrosian's motion for summary
13 judgment and Gomez's Rule 56(d) motion are moot and, for that reason, will be denied. Further,
14 the Court will vacate the order for Bedrosian and Jacobo to file an opposition or notice of non-
15 opposition to Gomez's Rule 56(d) motion.

16 **ORDER**

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. The Clerk is to DISMISS this action with prejudice against Bedrosian pursuant to
19 Fed. R. Civ. P. 41(a)(1);
- 20 2. Bedrosian's motion for summary judgment, Doc. No. 91, is DENIED as moot;
- 21 3. Gomez's Rule 56(d) motion, Doc. No. 94, is DENIED as moot;
- 22 4. The order for Bedrosian and Jacobo to file an opposition or notice of non-
23 opposition to Gomez's Rule 56(d) motion, Doc. No. 96, is VACATED.

24
25 IT IS SO ORDERED.

26 Dated: September 5, 2018


27 SENIOR DISTRICT JUDGE