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18 Attorneys for Defendants  
19 RANDY'S TRUCKING, INC.; and  
20 RANDY GRIFFITH, AN INDIVIDUAL; and  
21 KYLE GRIFFITH, AN INDIVIDUAL

22 **UNITED STATES DISTRICT COURT**  
23 **EASTERN DISTRICT OF CALIFORNIA**

24 **BAKERSFIELD DIVISION**

25 WILLIAM PHILLIPS, AN INDIVIDUAL;  
26 on behalf of himself and all others similarly  
27 situated,

28 Plaintiff,

vs.

RANDY'S TRUCKING, INC., A  
CALIFORNIA CORPORATION ; RANDY  
GENE GRIFFITH, AN INDIVIDUAL;  
KYLE GRIFFITH, AN INDIVIDUAL ,

Defendants.

Case No.: 1:16-cv-00753-LJO-JLT

**JOINT STIPULATION AND [~~PROPOSED~~  
~~ORDER~~] OF DISMISSAL ORDER  
CLOSING CASE**

**(Doc. 19)**

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**STIPULATION**

IT IS HEREBY STIPULATED AND AGREED, pursuant to Federal Rules of Civil Procedure, Rule 41(a)(1) by and between Plaintiff WILLIAM PHILLIPS and all Defendants who have appeared in this action, as follows:

1. This action was commenced on May 27, 2016.

2. The action was not certified as a class action; a receiver has not been appointed and the action is not governed by any statute of the United States that requires an order of the court for dismissal.

3. This stipulated dismissal is without prejudice for the remaining Plaintiff WILLIAM PHILLIPS to participate as unnamed class members in the pending action of *Kevin Marking v. Randy's Trucking*, Case No. BCV-15-100180, filed May 6, 2014 in Superior Court of California, County of Kern, if it is certified for a class or a class action settlement is reached.

4. This action is hereby dismissed, in its entirety, without prejudice.

5. Each party to bear their own fees and costs.

Respectfully submitted,

DATED: January 12, 2017

LAW OFFICES OF MICHAEL TRACY

/s/ Michael Tracy

By: \_\_\_\_\_  
MICHAEL TRACY, Attorney for Plaintiffs

DATED: January 12, 2017

LITTLER MENDELSON, P.C.

/s/ Kevin Koligian

By: \_\_\_\_\_  
KEVIN V. KOLIGIAN, Attorney for Defendant  
RANDY'S TRUCKING, INC.

**[PROPOSED] ORDER**

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On January 12, 2017, the parties filed a stipulation to dismiss the action. (Doc. 19) Federal Rules of Civil Procedure Rule 41 provides that “the plaintiff may dismiss an action without a court order by filing: . . . a stipulation of dismissal signed by all parties who have appeared.” . . .” Fed. R. Civ. P. 41(a). Once such a notice has been filed, an order of the Court is not required to make the dismissal effective. Fed. R. Civ. P. 41(a)(1)(ii); *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). Accordingly, the Clerk of Court is DIRECTED to close this action in light of the notice of dismissal with prejudice filed and properly signed pursuant to Rule 41(a).

IT IS SO ORDERED.

Dated: January 12, 2017

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE