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2 **UNITED STATES DISTRICT COURT**
3 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

4
5 **SHERYL BARRERA,**

6 **Plaintiff,**

7 **v.**

8 **HOME DEPOT U.S.A., INC., et al.,**

9 **Defendants.**

1:16-cv-848-LJO-SAB

**ORDER RE STIPULATION TO
DISMISS (Doc. 16) AND MOTION TO
DISMISS (Doc. 7)**

10
11 On August 16, 2016, the parties filed a stipulation to dismiss with prejudice Plaintiff's third,
12 fourth, and fifth causes of action under Fed. R. Civ. P. 41 (a)(1). The parties also stipulate to the
13 dismissal of Defendant Robert Joanou. The Court will construe this as a request from Plaintiff to
14 amend the complaint under Fed. R. Civ. P. 15. *See Metcalf v. Countrywide Fin. Corp.*, No. C-09-2707
15 EDL, 2009 WL 2485750, at *1 (N.D. Cal. Aug. 11, 2009) (construing the plaintiff's voluntary
16 dismissal of claims as amendment under Rule 15 rather than Rule 41 because "[i]t is well-established
17 . . . that Rule 41(a)(1) cannot be used to dismiss individual claims against Defendants" (citations
18 omitted)).

19 Accordingly, this Court DISMISSES with prejudice (1) Robert Joanou as a Defendant in this
20 case and (2) Plaintiff's third, fourth, and fifth causes of action. Defendant's motion to dismiss (Doc. 7)
21 is DENIED as moot.

22 IT IS SO ORDERED.

23 Dated: August 18, 2016

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE