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

CHOUMAS PRODUCE CO, INC.,)	No. 1:18-cv-00457-LJO-SKO
Plaintiff,)	ORDER DIRECTING CLERK OF COURT TO CLOSE CASE
vs.)	
ACADEMY FRUIT COMPANY, LLC, et al.,)	(Doc. 37)
Defendants.)	

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20 On June 6, 2018, Plaintiff filed a “Stipulation of Dismissal of Gary Dean Scarborough
21 and Voluntary Dismissal of Academy Fruit Company, LLC and Jayson Paul T. Scarborough,”
22 which dismisses Defendant Gary Dean Scarborough with prejudice pursuant to Federal Rule of
23 Civil Procedure 41(a)(1)(A)(ii), and dismisses Defendants Academy Fruit Company, LLC and
24 Jayson Paul T. Scarborough without prejudice pursuant to Federal Rule of Civil Procedure
25 41(a)(1)(A)(i). (Doc. 37.)

26 In relevant part, Rule 41(a)(1)(A) provides as follows:

27 [A] plaintiff may dismiss an action without a court order by filing: (i) a notice
28 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.

1 Fed. R. Civ. P. 41(a)(1)(A). “The plaintiff may dismiss some or all of the defendants, or some
2 or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically
3 terminates the action as to the defendants who are the subjects of the notice.” *Wilson v. City of*
4 *San Jose*, 111 F.3d 688, 692 (9th Cir. 1997).

5 Because the parties have filed a stipulation for dismissal of Defendant Gary Dean
6 Scarborough with prejudice under Rule 41(a)(1)(A)(ii) that is signed by all parties who have
7 made an appearance, this case has terminated as to that defendant. Fed. R. Civ. P.
8 41(a)(1)(A)(ii). In addition, Plaintiff has filed a notice of dismissal of Defendants Academy
9 Fruit Company, LLC, and Jayson Paul T. Scarborough without prejudice before they served
10 either an answer or a motion for summary judgment. As such, Plaintiff has voluntarily
11 dismissed those defendants without prejudice pursuant to Rule 41(a)(1)(A)(i).

12 Accordingly IT IS HEREBY ORDERED that the Clerk of the Court close this case.

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14 IT IS SO ORDERED.

15 Dated: June 6, 2018

16 */s/ Sheila K. Oberto*
17 UNITED STATES MAGISTRATE JUDGE
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