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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 JOSE TRUJILLO,

12 Plaintiff,

13 v.

14 MARISCOS COSTA AZUL
15 INCORPORATED, et al.,

16 Defendants.

Case No. 1:19-cv-00891-SAB

ORDER DISREGARDING STIPULATION
OF DISMISSAL OF ACTION

(ECF No. 35)

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18 On July 23, 2020, a stipulation was filed to dismiss this action in its entirety without
19 prejudice. (ECF No. 33.) On July 24, 2020, an order issued directing the Clerk of the Court to
20 close this action to reflect voluntary dismissal pursuant to Rule 41(a) of the Federal Rules of
21 Civil Procedure. (ECF No. 34.) On February 16, 2021, a stipulation was filed to dismiss this
22 action with prejudice. (ECF No. 35.)

23 Once the notice of dismissal under Rule 41(a) has been filed, “the district court loses
24 jurisdiction over the dismissed claims and may not address the merits of such claims or issue
25 further orders pertaining to them.” United States v. Real Prop. Located at 475 Martin Lane,
26 Beverly Hills, CA, 545 F.3d 1134, 1145 (9th Cir. 2008) (quoting Duke Energy Trading & Mktg.,
27 L.L.C. v. Davis, 267 F.3d 1042, 1049 (9th Cir. 2001)). A dismissal under section 41(a) is “a
28 ‘final decision’ for purposes of 28 U.S.C. § 1291.” Duke Energy Trading & Mktg., L.L.C., 267

1 F.3d at 1049. The Ninth Circuit has found it is “clear that a court has no discretion to exercise
2 [jurisdiction] once a Rule 41(a)(1) dismissal is filed.” Commercial Space Mgmt. Co. v. Boeing
3 Co., 193 F.3d 1074, 1077 (9th Cir. 1999). As this action has been previously dismissed without
4 a retention of jurisdiction, this Court does not have jurisdiction to dismiss this action with
5 prejudice. See Black Rock City, LLC v. Pershing Cty. Bd. of Comm’rs, 637 F. App’x 488 (9th
6 Cir. 2016) (district court jurisdiction expired when the parties filed a stipulation for voluntary
7 dismissal under Rule 41(a)(1)).¹

8 Accordingly, IT IS HEREBY ORDERED that the stipulation to dismiss this action with
9 prejudice is DISREGARDED.

10 IT IS SO ORDERED.

11 Dated: February 16, 2021

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14 UNITED STATES MAGISTRATE JUDGE
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28 ¹ Citation to this unpublished Ninth Circuit opinion is appropriate pursuant to Ninth Circuit Rule 36-3(b).