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 9 UNITED STATES DISTRICT COURT

10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 CHARLES H. LEWIS and JANE W. LEWIS,

12 Plaintiffs,

13 v.

14 ROBERT D. RUSSELL; BEN J. NEWITT; the
 15 Estate of PHILLIP NEWITT, Deceased, et al.,

16 Defendants.

Case No. CIV S-03-2646 WBS KJM

**STIPULATION FOR ORDER OF
 DISMISSAL**

[F.R.C.P. Rule 41(a)]

17 AND RELATED COUNTER- AND CROSS-
 18 ACTIONS.

19
 20 Defendant, Counter Claimant and Cross-Claimant BEN J. NEWITT (“Newitt”) and
 21 Defendant and Cross-Defendant VIC MANUFACTURING COMPANY, a dissolved corporation
 22 (“Vic”), through their respective attorneys of record, stipulate to an order of the above-entitled
 23 Court dismissing Newitt’s claims in his Answer to First Amended Third Party Complaint of
 24 Davis Center, LLC, et al.; Cross-Claims; and Demand for Jury Trial filed on or about
 25 February 19, 2008 in the above entitled action (“Newitt’s Claims”), as against Vic only, with
 26 prejudice, according to the terms of a Mutual Release of Claims (the “Release”), having an
 27 effective date of November 30, 2011, entered into by and between Newitt and Vic.

28 {JEM/00018477.}

POS, -1-

COTA COLE LLP
 2261 LAVA RIDGE COURT
 ROSEVILLE, CALIFORNIA 95661

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Dated: December 16, 2011

COTA COLE LLP

By: /s/ Dennis M. Cota

Dennis M. Cota
Derek P. Cole
Attorneys for Defendant/Counter-
Claimant/Cross-Claimant Ben J. Newitt

Dated: December 15, 2011

WEYAND LAW FIRM, PC

By: /s/ Paul P. DeAngelis

Paul P. DeAngelis
Attorneys for Third-Party Defendant/
Cross-Claimant Vic Manufacturing
Company

ORDER OF DISMISSAL

The Court, having reviewed and considered the stipulation set forth above, and good cause appearing therefor:

IT IS HEREBY ORDERED that Newitt's Claims in the above-entitled action be, and hereby are, dismissed, as against defendant Vic Manufacturing Company only, with prejudice.

IT IS ALSO HEREBY ORDERED that the dismissal is expressly conditioned upon the terms and conditions of that certain Mutual Release of Claims entered into by and between Newitt and Vic having an Effective Date of November 30, 2011 (the "Release").

IT IS FURTHER HEREBY ORDERED that the Court retains jurisdiction of this matter for the sole purpose of taking any action needed to enforce the terms of the Release.

IT IS FURTHER HEREBY ORDERED that each of the parties hereto shall bear its own costs, including attorney's fees, as provided in the Release.

Dated: December 19, 2011



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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PROOF OF SERVICE

I, Rena Wade, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action. My business address is Cota Cole LLP, 2261 Lava Ridge Court, Roseville, California 95661. On December 16, 2011, I served the within document(s):

STIPULATION FOR ORDER OF DISMISSAL [as to Vic Manufacturing Company, with prejudice]

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 3:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Roseville, California, addressed as set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated below. Such envelope was deposited for delivery by _____, following the firm's ordinary business practices.
- via electronic/email service. The document(s) listed above were served via email the addressees listed in the attached service list via the Eastern District's CM/ECF server.

SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 16, 2011, at Roseville, California.

/s/ Rena Wade
Rena Wade

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Lewis v. Russell, et al., U.S. Eastern District Court Case No. CIV S-03-2646 WBS KJM

SERVICE LIST

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