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11 Attorneys for Plaintiff
 CHARLES L. JONES

12
 13 UNITED STATES DISTRICT COURT
 14 EASTERN DISTRICT OF CALIFORNIA

15 CHARLES L. JONES, individually and on
 behalf of all others similarly situated,,
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Plaintiff,

17 v.

18 BOART LONGYEAR COMPANY, a Utah
 corporation; RICHARD
 19 VANDERPLOEG; DOES 1 through 50,
 inclusive,
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Defendants.
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Case No. 2:09 CV 00077-MCE-KJN

**STIPULATION AN ORDER RE:
 DISMISSAL WITH PREJUDICE
 PURSUANT TO FRCP 41(A)(1)**

Judge: Hon. Morrison C. England, Jr.

1 IT IS HEREBY STIPULATED by and between the parties to this action, Plaintiff
2 Charles Jones and Defendant Boart Longyear Company, and by and through their designated counsel
3 pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, that:

4 1. Following the filing of the Complaint in this action, the Parties engaged in
5 discovery and exchanged information pertaining to the alleged class claims at issue in this case;

6 2. Counsel for Plaintiff has diligently investigated the claims made in the
7 Complaint, both by evaluating the information provided by Defendant and by conducting an
8 independent investigation. The evidence provided by Defendant included written discovery and
9 employee time and pay records;

10 3. After a thorough investigation of the facts and review of the law, Plaintiff's
11 counsel has acknowledged that there are risks of proceeding with this case as a class action and
12 concluded that the case is likely not suitable for class certification under FRCP Rule 23(a) and (b),
13 and further, would likely not be certified under current case law related to meal and rest periods and
14 wages for off-the-clock work. As a result, the Parties have agreed to resolve this case on an
15 individual basis and hereby stipulate to dismiss this action with prejudice as to Plaintiff Charles
16 Jones (but without prejudice to the putative class).

17 4. The case has not been certified as a class action. Putative class members have
18 not received notice of this action and will not be prejudiced.

19 5. Each party shall bear its own fees and costs.
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Dated: April 12, 2011

/s/ _____
PETER F. SAMUEL
SAMUEL & SAMUEL
Attorneys for Plaintiff

Dated: April 27, 2011


/s/ _____
LAURA E. HAYWARD
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
BOART LONGYEAR COMPANY

ORDER

Based upon the above stipulation, the Court hereby orders this case dismissed as to the named Plaintiff, Charles L. Jones, with prejudice, each party to bear its own fees and costs. This dismissal shall be without prejudice, however, as to the putative class. The Clerk of Court is directed to close this file.

IT IS SO ORDERED.

DATED: May 4, 2011



MORRISON C. ENGLAND, JR
UNITED STATES DISTRICT JUDGE