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11  
12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
14

15 NAMRATA C. PATEL, DDS, )  
16 *Plaintiffs,* ) **CASE NUMBER: C 12-4719 WHO**  
17 v. ) **PLAINTIFF’S REQUEST FOR DISMISSAL**  
18 AMERICAN ECONOMY INSURANCE, ETC., ET ) **WITH PREJUDICE**  
19 AL., ) *Fed. Rule Civ. Proc. 41(a)(2)*  
20 *Defendants.* )

21 *To the Clerk of the Court, All Interested Parties and Their Respective Attorneys of Record:*

22 Plaintiff hereby requests that this action be dismissed in its entirety with prejudice. Rule 41(a)(2)  
23 of the Federal Rules of Civil Procedure provides, in part: “[A]n action shall not be dismissed at  
24 Plaintiff’s instance save upon order of the Court and upon such terms and conditions as the court  
25 deems proper[...]. Unless otherwise specified in the order, a dismissal under this paragraph is  
26 without prejudice.” Here, Plaintiff is requesting dismissal **WITH** prejudice.

27 “When the court grants a motion to dismiss certain claims (e.g. for failure to state a claim,)   
28 plaintiff may ask the court to dismiss the remaining claims without prejudice in order to obtain ap-

1 *pellate review.*" (Court approval is required; See FRCP 41(a)(2), discussed at § 16:343 ff.) Provid-  
2 ed this is not an attempt to "manipulate" appellate jurisdiction, the judgment entered after the dis-  
3 trict court grants the motion to dismiss may be treated as a final judgment [See *James v. Price Stern*  
4 *Sloan, Inc.* (9<sup>th</sup> Cir. 2002) 283 F3rd 1064, 1070" [Rutter citation, § 16:407]

5 Here, in light of this Court's May 8, 2014 Order concerning partial summary judgment further  
6 clarified to Plaintiff on June 30, 2014, Plaintiff believes that judicial economy is best served by way  
7 of dismissal of all remaining claims with prejudice.

8 Respectfully submitted,

9 Dated:

/s/ Marcus Daniel Merchasin  
Marcus Daniel Merchasin  
Attorney for Plaintiff

11 Dated:

/s/ Steven F. Helfand  
Steven F. Helfand  
Attorney for Plaintiff

13 IT IS SO ORDERED: Plaintiff's case is dismissed with prejudice.

14 Dated: July 1, 2014

  
Honorable William H. Orrick