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 KIRBY MORGAN DIVE SYSTEMS, INC.

8
 9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**

12 SURFACE SUPPLIED, INC., a California)
 corporation,)

13 Plaintiff,)

14 vs.)

16 KIRBY MORGAN DIVE SYSTEMS, INC.,)
 a California Corporation,)

17 Defendant.)

19 _____)
 20 KIRBY MORGAN DIVE SYSTEMS, INC.,)
 a California Corporation,)

21 Counterclaimant,)

22 vs.)

24 SURFACE SUPPLIED, INC., a California)
 corporation; Heliox TECHNOLOGIES,)
 25 INC., a California corporation; and JASON)
 VAN DER SCHYFF, an individual, and)
 26 DOES 1-9,)

27 Counter-Defendants.)
 28 _____)

CASE NO. CV 13-0575 MMC

[Hon. Maxine M. Chesney]

**~~[PROPOSED]~~ ORDER OF DISMISSAL
 PURSUANT TO RULE OF CIVIL
 PROCEDURE 41(a)(2)**

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[PROPOSED] ORDER

1
2 Plaintiff and Counter-Defendant Surface Supplied, Inc. (“Surface Supplied”), Counter-
3 Defendant Heliox Technologies, Inc. (“Heliox”), Counter-Defendant Jason Van der Schyff
4 (“Van der Schyff”) and Defendant and Counterclaimant Kirby Morgan Dive Systems, Inc.
5 (“Kirby Morgan”) (collectively “the Parties”) have jointly moved this Court for an order of
6 dismissal pursuant to *Rule of Civil Procedure 41(a)(2)*. The Parties request that the Court
7 incorporate the terms of the parties’ settlement agreement into the dismissal order by reference
8 and that the Court retain jurisdiction to enforce the agreement under the authority of *Kokkonen*
9 *v. Guardian Life Ins. Co.*, 511 U.S. 375, 381-382, 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994).
10 The Court finds that the Parties’ settlement agreement is complete; includes a statement that the
11 Court retain jurisdiction to enforce the agreement; and, has been executed by the Parties.


12
13 Proof having been made to the satisfaction of the Court that the Motion should be
14 granted, and good cause appearing therefore,

15
16 **THE COURT HEREBY ORDERS, ADJUDGES AND DECREES that:**

- 17
18 (1) Pursuant to *Rule of Civil Procedure 41(a)(2)*, this action is dismissed, in its
19 entirety, with prejudice;
- 20 (2) The terms of the Parties’ settlement agreement, ^{filed March 20, 2014, as} ~~appended to this Order as~~
21 to the Declaration of Daniel M. Cislo
22 Exhibit A, are incorporated herein by reference; and
- 23 (3) The Court shall retain jurisdiction of this matter to enforce the terms of the
24 settlement agreement.

25 **IT IS SO ORDERED.**

26
27 Date: March 21, 2014

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Hon. Maxine M. Chesney
United States District Judge

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Respectfully submitted,
CISLO & THOMAS, LLP

By: /s/Daniel M. Cislo
Daniel M. Cislo
David B. Sandelands
Mark D. Nielsen
Attorneys for Defendant and Counterclaimant,
KIRBY MORGAN DIVE SYSTEMS, INC.