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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAMUEL EDWARD JANSEN,  
  
Plaintiff,  
  
v.  
  
FOSTER WHEELER ENERGY  
CORPORATION, et al.,  
  
Defendants.

Case No. [16-cv-03385-EMC](#)

**ORDER GRANTING PLAINTIFFS' EX  
PARTE APPLICATION FOR AN  
ORDER GRANTING DISMISSAL OF  
THE ENTIRE ACTION WITHOUT  
PREJUDICE**

Docket No. 50

Plaintiffs initiated this personal injury asbestos action in state court against more than fifty different companies. *See* Docket No. 1 (complaint). Defendant Foster Wheeler Energy Corporation removed the case to federal court pursuant to 28 U.S.C. § 1442(a)(1).<sup>1</sup> *See* Docket No. 1 (notice of removal). A total of nine defendants have made an appearance before this Court. Currently pending before the Court is Plaintiffs' ex parte application for an order granting dismissal of the entire action, without prejudice. *See* Fed. R. Civ. P. 41(a)(2) (providing that "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper"; also providing that, "[u]nless the order states otherwise, a dismissal under this paragraph (2) is without prejudice").

According to Plaintiffs, before filing the pending application, they contacted "all active Defendants" and asked for a stipulation of dismissal. App. at 3. Only two of the "active" defendants declined, namely, Foster Wheeler Energy Corporation and John Crane, Inc. Plaintiffs therefore filed the pending application. Via ECF. Plaintiffs gave notice of the application to those

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<sup>1</sup> Section 1442(a)(1) allows for removal by "[t]he United States or any agency thereof of any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office." 42 U.S.C. § 1442(a)(1).


1 defendants who have appeared in this action, which includes Foster Wheeler Energy Corporation  
2 and John Crane, Inc. Plaintiffs also informed many, but not all, of the remaining defendants of  
3 their intent to file the application by letter. *See* Blumenfeld James Decl., Ex. 1 (letter).

4 The Court has received no opposition to Plaintiffs' application from any defendant,  
5 including Foster Wheeler Energy Corporation and John Crane, Inc. Although some defendants  
6 were not notified of Plaintiffs' application or their intent to file the application, those defendants  
7 have not made an appearance in this litigation. The Court discerns no prejudice to defendants  
8 from dismissal. Taking into account the above circumstances, the Court hereby **GRANTS**  
9 Plaintiffs' application. The instant case is dismissed, and without prejudice.

10 This order disposes of Docket No. 50.

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12 **IT IS SO ORDERED.**

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14 Dated: August 29, 2016

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17 EDWARD M. CHEN  
18 United States District Judge

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