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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID ARMSTRONG,  
Plaintiff(s),

No. C 07-3273 PJH

v.

**ORDER OF DISMISSAL**

BRUSCO TUG AND BARGE,  
Defendant(s).  
\_\_\_\_\_ /

The parties hereto, by their counsel, having advised the court that they have agreed to a settlement of this cause, IT IS HEREBY ORDERED that this cause of action is dismissed **without** prejudice; provided, however that if any party hereto shall certify to this court, within ninety (90) days, with proof of service thereof, that the agreed consideration for said settlement has not been delivered over, the foregoing order shall stand vacated and this cause shall forthwith be restored to the calendar to be set for trial.

If no certification is filed, after passage of ninety (90) days, the dismissal shall be **with** prejudice.

The pretrial conference and trial date are VACATED.

IT IS SO ORDERED.

Dated: November 6, 2008

  
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PHYLLIS J. HAMILTON  
United States District Judge