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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

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19 VAN RUITEN FAMILY WINERY, LLC, a  
California limited liability company,

20 Plaintiff,

21 vs.

22 KEVIN F. SHERWOOD, an individual;  
23 DIABLO DRAGON WINES, INC., a  
California corporation, and DOES 1 through  
24 20, inclusive,

25 Defendants.

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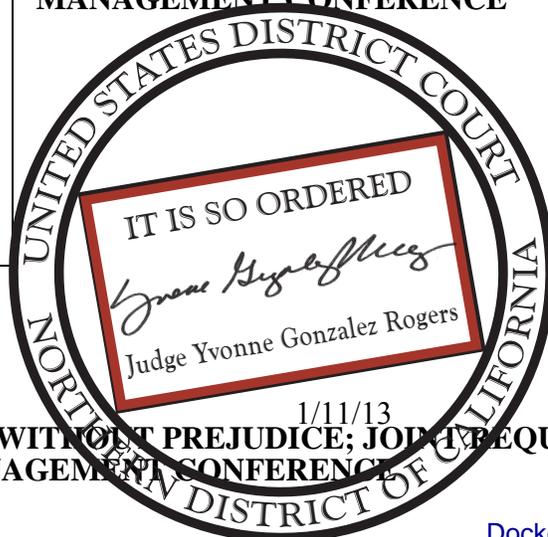
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28 4822-3981-0322.1

CASE NO. C-12-1692-YGR

**NOTICE OF VOLUNTARY DISMISSAL  
WITHOUT PREJUDICE;**

**JOINT REQUEST TO VACATE CASE  
MANAGEMENT CONFERENCE**



**NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE; JOINT REQUEST  
TO VACATE CASE MANAGEMENT CONFERENCE**

1 Plaintiff, VAN RUITEN FAMILY WINERY, LLC, by and through its attorneys, notifies  
2 this Honorable Court and Defendants, pursuant to Federal Rule of Civil Procedure (“FRCP”)  
3 41(a)(1)(A)(i), that it hereby voluntarily dismisses this action without prejudice as to all  
4 defendants. In support thereof, Plaintiff states as follows:

5  
6 1. The parties have executed a settlement agreement and in accordance  
7 therewith, Plaintiff filed on January 3, 2013, a Notice of Conditional Settlement with Proposed  
8 Order vacating the Case Management Conference; thereafter, the Court continued to January 14,  
9 2013 at 2:00 p.m. the initial Case Management Conference;

10 2. Plaintiff now dismisses the instant action without prejudice and without a proposed  
11 order, pursuant to FRCP 41(a)(1)(A)(i), which states in pertinent part:

12 “(a) Voluntary Dismissal.

13 (1) By the Plaintiff.

14 (A) Without a Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and 66  
15 and any applicable federal statute, the plaintiff may dismiss an  
16 action without a court order by filing:

17 (i) a notice of dismissal before the opposing party serves either  
18 an answer or a motion for summary judgment; or

19 (ii) a stipulation of dismissal signed by all parties who have  
20 appeared.

21 (B) Effect. Unless the notice or stipulation states otherwise, the dismissal  
22 is without prejudice...”

23 3. Defendants have not yet answered the complaint or filed a motion for summary  
24 judgment, and have no objection to the voluntary dismissal.

25 4. The parties submit that as the case is now voluntarily dismissed, no Case  
26 Management conference is warranted, and jointly request that the Case Management Conference  
27 be vacated.

1 Dated: January 10, 2013

LEWIS BRISBOIS BISGAARD & SMITH LLP

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3 By: /s/  
4 MINA I. HAMILTON, ESQ.  
5 Attorneys for Plaintiff VAN RUITEN  
6 FAMILY WINERY, LLC

6 Dated: January 10, 2013

LAW OFFICES OF WILLIAM W. PALMER

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8 By: /s/  
9 WILLIAM W. PALMER, ESQ.  
10 Attorneys for Specially Appearing Defendants  
11 KEVIN F. SHERWOOD, and DIABLO  
12 DRAGON WINES, INC.

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