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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SHELBY GAIL HEIFETZ,
Plaintiff,
v.
TEXAS TURKEYS, INC., et al.,
Defendants.

Case No. [5:15-cv-05726-EJD](#)

**ORDER STRIKING STIPULATION TO
DISMISS ACTION**

Re: Dkt. No. 33

On July 25, 2016, Plaintiff and several defendants submitted a document entitled “Stipulation to Dismiss Action with Prejudice Against Defendants Viscovich San Antonio, LLC; Benson Properties, Inc.; and Benson & Benson, Incorporated; and Reservation of Rights Against Co-Defendant Texas Turkeys, Inc.” (the “Stipulation”). Dkt. No. 33. According to that document, Plaintiff and several defendants agree that Plaintiff’s claims against Viscovich San Antonio, LLC, Benson Properties, Inc. and Benson & Benson, Incorporated should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). It also appears these same parties agree that “Plaintiff reserves her rights against Defendant Texas Turkeys, Inc.”

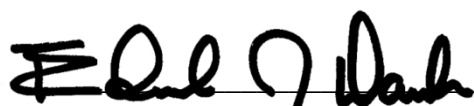
The court cannot accept the Stipulation in its current format. Federal Rule of Civil Procedure 41(a)(1)(A)(ii) requires that a stipulation for dismissal of an action without a court order must be signed by all parties who have appeared. Here, the Stipulation is not signed by all parties who have appeared in this action; indeed, it is missing a signature on behalf of Defendant Texas Turkeys, Inc., which entered an appearance on January 6, 2016. Dkt. No. 7. Moreover, the “reservation of rights” language does not constitute a resolution of the claims asserted against Defendant Texas Turkeys, Inc. in the Complaint.

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For these reasons, the Stipulation is STRICKEN. This action is not dismissed. The parties are advised that any subsequent stipulation for dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) must be consistent with this order.

IT IS SO ORDERED.

Dated: July 26, 2016


EDWARD J. DAVILA
United States District Judge