

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Case No. 09-cv-02914-REB-BNB

IRON WORKERS DISTRICT COUNCIL OF TENNESSEE VALLEY & VICINITY  
PENSION PLAN, Derivatively on Behalf of LEVEL 3 COMMUNICATIONS, INC.,

Plaintiff,

v.

JAMES Q. CROWE,  
KEVIN J. O'HARA,  
SUNIT S. PATEL,  
MICHAEL B. YANNEY,  
JAMES O. ELLIS JR.,  
RICHARD R. JAROS,  
ROBERT E. JULIAN,  
ARUN NETRAVALI,  
JOHN T. REED,  
WALTER SCOTT, JR., and  
ALBERT C. YATES,

Defendants,

and

LEVEL 3 COMMUNICATIONS, INC., a Delaware corporation,

Nominal Defendant.

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**ORDER GRANTING MOTION FOR FINAL ORDER OF DISMISSAL**

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**Blackburn, J.**

This matter is before the court on the plaintiff's **Unopposed Motion for Final Order of Dismissal** [#61]<sup>1</sup> filed March 8, 2012. In this motion, and in a previous motion [#59], the parties seek an order approving the voluntary dismissal of this shareholder

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<sup>1</sup> "[#61]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

derivative action. The parties propose a dismissal with prejudice as to the plaintiff and without prejudice otherwise. A parallel shareholder derivative action is pending in state court. *In re Level 3 Communications Inc. Derivative Litigation*, Lead Case No. 2009CV59 (District Court, Broomfield County, Colorado). The parties have complied with the requirements of FED. R. CIV. P. 23.1(c). Thus, the stipulated and voluntary dismissal of this case is appropriate.

**THEREFORE, IT IS ORDERED** as follows:

1. That the plaintiff's **Unopposed Motion for Final Order of Dismissal** [#61] filed March 8, 2012, is **GRANTED**;
2. That under FED. R. CIV. P. 23.1(c) and 41(a), this case is **DISMISSED** without prejudice as to the named defendants;
3. That under FED. R. CIV. P. 23.1(c) and 41(a), this case is **DISMISSED** with prejudice as to the plaintiff, Iron Workers District Council of Tennessee Valley & Vicinity Pension Plan, Derivatively on Behalf of Level 3 Communications, Inc.;
4. That all other pending motions, including those docketed as [#50, #51, and #52], are **DENIED** as moot; and
5. That this case is **CLOSED**.

Dated March 13, 2012, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge