

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

USA,

Plaintiff,

v.

Case No: 2:13-cv-793-FtM-38CM

34 LUXURY VEHICLES,

Defendant.

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**ORDER**<sup>1</sup>

This matter comes before the Court on United States' Unopposed Motion to Dismiss Certain Property ([Doc. #76](#)) filed on October 6, 2014. The United States seeks to dismiss the civil forfeiture action against twenty-three defendant vehicles, listed by VIN and Claimant below:

- |                      |  |
|----------------------|--|
| 1. 5UXZV4C59D0E09628 | Grand Union International Corp. (Claimant) |
| 2. 5UXZV4C52D0E12421 | Grand Union International Corp. (Claimant) |
| 3. 5UXZV4C58D0E12424 | Grand Union International Corp. (Claimant) |
| 4. 5UXZV4C54D0E12422 | Grand Union International Corp. (Claimant) |
| 5. 5UXZV4C56D0E12535 | Grand Union International Corp. (Claimant) |
| 6. 5UXZV4C51D0E12247 | Grand Union International Corp. (Claimant) |
| 7. 5UXZV4C58D0E12536 | Grand Union International Corp. (Claimant) |

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8. 5UXZV4C5XD0E12537	Grand Union International Corp. (Claimant)
9. 5UXZV4C54D0E12534	Grand Union International Corp. (Claimant)
10.5UXZV4C52D0E11995	Grand Union International Corp. (Claimant)
11.5UXZV4C52D0E11950	Grand Union International Corp. (Claimant)
12.5UXZV4C57D0E12138	Grand Union International Corp. (Claimant)
13.5UXZV4C59D0E12089	Grand Union International Corp. (Claimant)
14.5UXZV4C50D0E11994	Grand Union International Corp. (Claimant)
15.5UXZV4C57D0E11989	Grand Union International Corp. (Claimant)
16.5UXZV4C51D0E11986	Grand Union International Corp. (Claimant)
17.5UXZV4C5XD0E12246	Grand Union International Corp. (Claimant)
18.5UXZV4C58D0E12245	Grand Union International Corp. (Claimant)
19.5UXZV4C56D0E12664	Grand Union International Corp. (Claimant)
20.5UXZV4C50D0E12353	Grand Union International Corp. (Claimant)
21.5UXZV4C54D0E12355	Grand Union International Corp. (Claimant)
22.4JGDF2EE6DA166292	DLD Enterprises, Inc.
23.WP1AF2A24DLA29163	DLD Enterprises, Inc.

Grand Union International Corp. (Grand Union) and DLD Enterprises, Inc. (DLD) filed verified claims with respect to the above named defendant vehicles, and their interests have now been settled through negotiations with the United States. Therefore, the United States is seeking voluntary dismissal of the twenty-three vehicles pursuant to written settlement with the vehicles' claimants, Grand Union and DLD. Specifically, the United States seeks dismissal of these vehicles under [Federal Rule of Civil Procedure 41\(a\)\(2\)](#) and 54(b).

Except as provided in Rule 41(a)(1) (dismissal by stipulation or before an answer or motion for summary judgment has been filed), dismissal of an action must be by court order. [Kokkonen v. Guardian Life Ins. Co. of America](#), 511 U.S. 375, 378–381 (1994); [Anago Franchising, Inc. v. Shaz, LLC.](#), 677 F.3d 1272, 1280 (11th Cir. 2012). Federal Rule of Civil Procedure 41(a)(2) provides that “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” “The district court enjoys broad discretion in determining whether to allow a voluntary dismissal under Rule 41(a)(2).” [Pontenberg v. Boston Sci. Corp.](#), 252 F.3d 1272, 1280 (11th Cir. 2001). A “voluntary dismissal should be granted unless the defendant will suffer clear legal prejudice, other than the mere prospect of a subsequent lawsuit, as a result.” *Id.* (internal quotation marks omitted).

While Rule 41(a)(2) allows for the dismissal of an action, the Courts in this District generally hold that Rule 41(a)(2) applies only to the entire action and not some of the parties in the case. Nevertheless, pursuant to [Fed. R. Civ. P. 54\(b\)](#), “when multiple parties are involved, the court may direct entry of final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.” The United States agrees that its interests in these twenty-three vehicles have been resolved through negotiation and settlement. The remaining vehicles will be unaffected by the dismissal, as will the remaining claimants. Therefore, there is no just reason for delay and the Motion to Dismiss the twenty-three vehicles is due to be granted.

Accordingly, it is now

**ORDERED:**

(1) United States' Unopposed Motion to Dismiss Certain Property ([Doc. #76](#)) is

**GRANTED.** All claims against Defendant Vehicles

1. 5UXZV4C59D0E09628 Grand Union International Corp. (Claimant)
2. 5UXZV4C52D0E12421 Grand Union International Corp. (Claimant)
3. 5UXZV4C58D0E12424 Grand Union International Corp. (Claimant)
4. 5UXZV4C54D0E12422 Grand Union International Corp. (Claimant)
5. 5UXZV4C56D0E12535 Grand Union International Corp. (Claimant)
6. 5UXZV4C51D0E12247 Grand Union International Corp. (Claimant)
7. 5UXZV4C58D0E12536 Grand Union International Corp. (Claimant)
8. 5UXZV4C5XD0E12537 Grand Union International Corp. (Claimant)
9. 5UXZV4C54D0E12534 Grand Union International Corp. (Claimant)
10. 5UXZV4C52D0E11995 Grand Union International Corp. (Claimant)
11. 5UXZV4C52D0E11950 Grand Union International Corp. (Claimant)
12. 5UXZV4C57D0E12138 Grand Union International Corp. (Claimant)
13. 5UXZV4C59D0E12089 Grand Union International Corp. (Claimant)
14. 5UXZV4C50D0E11994 Grand Union International Corp. (Claimant)
15. 5UXZV4C57D0E11989 Grand Union International Corp. (Claimant)
16. 5UXZV4C51D0E11986 Grand Union International Corp. (Claimant)
17. 5UXZV4C5XD0E12246 Grand Union International Corp. (Claimant)
18. 5UXZV4C58D0E12245 Grand Union International Corp. (Claimant)
19. 5UXZV4C56D0E12664 Grand Union International Corp. (Claimant)
20. 5UXZV4C50D0E12353 Grand Union International Corp. (Claimant)
21. 5UXZV4C54D0E12355 Grand Union International Corp. (Claimant)

22. 4JGDF2EE6DA166292 DLD Enterprises, Inc.

23. WP1AF2A24DLA29163 DLD Enterprises, Inc.

are **DISMISSED**. Finding no just cause for delay, the Clerk shall enter judgment accordingly and terminate only these Defendant Vehicles.

(2) Claimant Grand Union's Motion to Dismiss for Failure to State a Claim ([Doc. #73](#)) is **DENIED** as moot.

(3) Claimant Grand Union's Motion for Hearing ([Doc. #74](#)) is **DENIED** as moot.

**DONE** and **ORDERED** in Fort Myers, Florida this 7th day of October, 2014.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record