

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

M & L FOODS, INC.,

Plaintiff,

vs.

VCG HOLDING CORP., RICHARD
SAGGIO, INC., IRC, LP, JOHAN VAN
BAAL, and MRC, LP,

Defendants.

Case No. 11-cv-537-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff's voluntary dismissal with prejudice (Doc. 84). Defendants VCG Holding Corp., IRC, LP, Johan Van Baal, and MRC, LP filed an agreement to accept voluntary dismissal (Doc. 94). The Court construes plaintiff's voluntary dismissal as a stipulation of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Federal Rule of Civil Procedure 41(a)(1)(A)(ii) provides that "a plaintiff may dismiss an action without a court order by filing a stipulation of dismissal signed by all parties who have appeared." However, "[I]teral compliance with the stipulation requirement has not been required where the agreement of all parties is apparent." *Boran v. United Migrant Opportunity Servs, Inc.*, 99 Fed. App'x 64, 66-67 (7th Cir. 2004)(citing *Golden v. Barenborg*, 53 F.3d 866, 868-69, 871 (7th Cir. 1995)). Every signature does not have to appear on a single document to satisfy Rule 41(a)(1)(ii). *Boran*, 99 Fed. App'x at 67 (citing *Eitel v. McCool*, 782 F.2d 1470, 1473 (9th Cir. 1986); *Oswalt v. Scripto, Inc.*, 616 F.2d 191, 195 (5th Cir. 1980); *Pipeliners Local Union No. 798 v. Ellerd*, 503 F.2d 1193, 1999 (10th Cir. 1974)). Accordingly, plaintiff's notice

of voluntary dismissal (Doc. 84), and defendants' agreement to accept voluntary dismissal (Doc. 94) containing the signature of the above-mentioned defendants' counsel satisfies Rule 41(a)(1)(A)(ii).

Thus, because plaintiff has an absolute right to dismiss this case pursuant to a stipulation under Rule 41(a)(1)(A)(ii), the Court finds that the claims against defendants VCG Holding Corp., IRC, LP, Johan Van Baal, and MRC, LP are **DISMISSED with prejudice**.

IT IS SO ORDERED.

DATED: October 11, 2012

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE