

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MARK ARTZER, SETH EATON, MICHELE
HEATH, *and all others similarly situated*,

Plaintiffs,

v.

GUTCHESS LUMBER CO., INC., DAVID
ALVORD, ANDREW MIDDLETON, KEITH
GUTCHESS, DONALD AMES, GARY
GUTCHESS, HUDNELL W. CALDWELL,
STEPHEN A. SERVIES, MATTHEW
GUTCHESS, ROBERT PINE, KENNETH J.
BOBRYCKI, WILLIAM SMITH, DANIEL
McGOUGH, BARRY COOK AND JOHN
TRACY,

Defendants.

CIVIL ACTION NO:
5:13-CV-664
(FJS/TWD)

Order of Dismissal with Prejudice

WHEREAS, on June 7, 2013, Plaintiffs filed a complaint against Gutchess Lumber Co., Inc., Gary Gutchess, Hudnell W. Caldwell, Stephen A. Servies, Matthew Gutchess, Robert Pine, Kenneth J. Bobrycki, William Smith, Daniel McGough, Barry Cook and John Tracy (the "Gutchess Defendants"). On October 21, 2013, Plaintiffs filed an Amended Complaint (later corrected November 4, 2013) adding as defendants David Alvord, Andrew Middleton, Keith Gutchess and Donald Ames (the "1998 Trust Defendants"). On November 8, 2013, the Gutchess Defendants filed a motion to dismiss all counts against them. On February 14, 2014, the 1998 Trust Defendants filed their motion to dismiss all counts against them. Oral argument was heard

before the Hon. Frederick J. Scullin on April 29, 2014. On May 14, 2014, Plaintiffs filed a motion for voluntary dismissal of all claims against all defendants without prejudice.

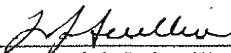
WHEREAS, on June 6, 2014, pursuant to Fed. R. Civ. P. 41(a)(1)(ii), and, to the extent applicable, Rule 23.1, all parties moved for an order dismissing this action in its entirety, with prejudice and without costs.

WHEREAS, no court approval is required for dismissal of Counts I-III of the Amended Complaint.

WHEREAS, to the extent Count IV could be argued to fall within Rule 23.1, dismissal of that Count with prejudice as to the three named plaintiffs would not adversely affect the rights of any other person.

NOW, THEREFORE, this action is dismissed in its entirety, with prejudice and without costs, and without further notice to the shareholders of Gutchess Lumber Co., Inc.

Dated: June 9, 2014
Syracuse, New York



Hon. Frederick J. Scullin
U.S. District Court Senior Judge