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The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Seth Baker, et al.,)	No. 11-cv-00722-RSM
)	
)	Plaintiffs,
v.)	STIPULATION AND ORDER
)	GRANTING PLAINTIFFS' MOTION
)	TO DISMISS WITH PREJUDICE
)	
Microsoft Corporation,)	
)	
)	Defendant.
)	
)	
)	

STIPULATION

The parties, by and through their attorneys of record, stipulate to the Court's entry of the proposed Order set forth below, dismissing this case with prejudice, directing entry of judgment, and reserving questions of appealability. In support of this request, the parties represent the following:

1. Plaintiffs filed this action on April 28, 2011. *See* Dkt. 1.
2. On March 27, 2012, the Court entered its Order on Defendant's Motion to Strike Plaintiffs' Class Allegations, granting Microsoft's Motion to Strike. *See* Dkt. 32.
3. On June 12, 2012, the United States Court of Appeals for the Ninth Circuit entered an Order "in its discretion, den[ying] the [Plaintiffs'] petition for permission to appeal the district court's March 27, 2012 order."

1 4. On September 25, 2012, Plaintiffs filed a Motion to Dismiss with Prejudice.
2 *See* Dkt. 35. In that Motion, Plaintiffs explained that “[a]fter the Court has entered a final
3 order and judgment, Plaintiffs intend to appeal the Court’s March 27, 2012 order (Dkt. 32)
4 striking Plaintiffs’ class allegations.” *Id.*

5 5. Microsoft does not intend to oppose Plaintiffs’ Motion to Dismiss because Fed.
6 R. Civ. P. 41(a)(1)(A)(i) permits them to dismiss their case voluntarily. Microsoft does
7 contend, however, that Plaintiffs will have no right to appeal the Court’s Order striking
8 Plaintiffs’ class allegations after entry of their requested dismissal.

9 6. This Stipulation is not filed pursuant to a settlement agreement, nor was
10 Plaintiffs’ Motion to Dismiss filed pursuant to a settlement agreement. The parties have not
11 entered into any settlement of Plaintiffs’ claims.

12 7. Based on the foregoing, the parties stipulate and agree that the Court may enter
13 the following Order dismissing this matter with prejudice, reserving to all parties their
14 arguments as to the propriety of any appeal. Any arguments as to the propriety of an appeal
15 shall be addressed in the United States Court of Appeals for the Ninth Circuit, if and when
16 Plaintiffs file a notice of appeal.

17 Respectfully submitted this 16th day of October, 2012.

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ORDER

Based on the foregoing Stipulation, the Court GRANTS Plaintiffs' Motion to Dismiss with Prejudice, with all parties to bear their own costs and fees. The Court hereby directs the Clerk to enter Judgment accordingly and close this case.

IT IS SO ORDERED.

DATED this 16 day of October, 2012.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

Presented By:

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