

**I.
BACKGROUND FACTS**

1. The Receiver filed his Complaint (Dkt. No. 1) against the Defendants in this case on March 7, 2007.

2. The Receiver has already obtained final judgment against International Fidelity & Surety Limited (Dkt. No. 46), International Consultants & Management Ltd. (Dkt. No. 52), Surety Marketing Source, LLC (Dkt. No. 83), KPMG International (Dkt. No. 60), and Mark Wolok (Dkt. No. 52).

3. The Receiver has already dismissed his causes of action against Linda Wolok (Dkt. No. 33), Arie Kotler (Dkt. No. 70), Galax Holdings, Ltd. (Dkt. No. 64), and Boswell Dermott & Pawlett, LLP (Dkt. No. 64).

4. Along with this motion, the Receiver has filed a separate notice of dismissal (Dkt. No. 88) for his causes of action against KPMG Vanuatu, Hawkes Law, and Mohan & Associates.

5. As a result, the only remaining claims in this case are against David A. Goldenberg, DAG Investments LLC, LPG Investments LLC, and WED Marketing LLC (collectively, the "Goldenberg Defendants").

6. The Goldenberg Defendants filed separate Answers (Dkt. Nos. 38-41) to the Receiver's Complaint on May 1, 2007.

7. After David Goldenberg committed suicide, his attorneys filed a Motion to Withdraw as Counsel (Dkt. No. 65) for the Goldenberg Defendants. The Court entered an order (Dkt. No. 76) granting the withdrawal and directing all future correspondence to:

Estate of David Goldenberg
3036 West Ridge Court
Bloomfield Hills, Michigan 48302

DAG Investments LLC
c/o Estate of David Goldenberg
3036 West Ridge Court
Bloomfield Hills, Michigan 48302

LPG Investments LLC
c/o Estate of David Goldenberg
3036 West Ridge Court
Bloomfield Hills, Michigan 48302

WED Marketing LLC
Attn: Paula Cetean
1550 Drexal, #5
Miami Beach, Florida 33139

8. The Receiver has worked out a settlement agreement with David Goldenberg's widow, achieved a substantial recovery from that settlement, and now wishes to dismiss his claims against the Goldenberg Defendants.

III. ARGUMENTS AND AUTHORITIES

Generally, once the defendant appears in a case, a plaintiff would dismiss his claims by stipulation of both parties. FED. R. CIV. P. 41(a)(1)(A)(ii). However, Rule 41(a)(2) also permits dismissal by court order at the plaintiff's request. Dismissals under Rule 41(a)(2) should be freely granted unless the defendants would suffer some plain legal prejudice other than the mere prospect of a second lawsuit. *Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 317 (5th Cir. 2002).

The Receiver believes that dismissal by court order under Rule 41(a)(2) is appropriate here. Each of the Goldenberg Defendants have appeared in this case but are no longer represented by counsel, making it difficult to obtain a stipulation of dismissal under Rule 41(a)(1). An order of dismissal, on the other hand, would quickly bring this case to an end without additional expense to the receivership estate.

CERTIFICATE OF SERVICE

A true and correct copy of this notice was served on all interested parties through the Court's electronic pleading system and by U.S. Mail, first class postage prepaid, to:

Estate of David Goldenberg
3036 West Ridge Court
Bloomfield Hills, Michigan 48302

LPG Investments LLC
c/o Estate of David Goldenberg
3036 West Ridge Court
Bloomfield Hills, Michigan 48302

DAG Investments LLC
c/o Estate of David Goldenberg
3036 West Ridge Court
Bloomfield Hills, Michigan 48302

WED Marketing LLC
Attn: Paula Cetean
1550 Drexal, #5
Miami Beach, Florida 33139

/s/ Brent J. Rodine