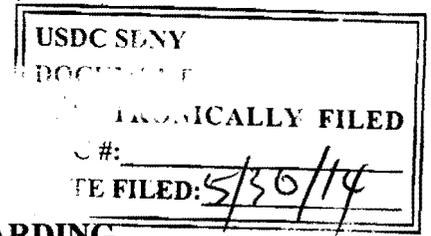


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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: **ORDER REGARDING**
: **STIPULATIONS OF**
: **VOLUNTARY DISMISSAL**
:
: 21 MC 102 (AKH)
----- X

ALVIN K. HELLERSTEIN, U.S.D.J.:

The Court has received Stipulations of Voluntary Dismissal with Prejudice in 35 individual cases under this master docket. The stipulations provide for the voluntary dismissal of the plaintiffs' claims against FGP 90 West Street, Inc., FGP West Street, LLC, B.C.R.E. 90 West Street, LLC, and the Kibel Companies without costs, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). The stipulations have a signature block for the Court to "so order" them.

A stipulation of dismissal signed by all parties who have appeared is sufficient to cause a case to be dismissed. Fed. R. Civ. P. 41(a)(1)(A)(ii). But, where, as here, the proposed dismissal is not signed by all parties, the plaintiff seeking dismissal must seek a court order. As Federal Rule of Civil Procedure 41(a)(2) provides, in such circumstances, the court may dismiss an action at the plaintiff's request "by court order, on terms that the court considers proper."

I have accepted and signed similar stipulations in the past, where it appears that the stipulation reflects the plaintiff's determination that he has no viable claims against a particular defendant. However, the number of stipulations now tendered to me, and at this stage of the litigation, suggests that pretrial settlements have occurred. In any event, I decline to sign, or approve dismissals of cases without strict compliance to Rule 41, in all its subparts. Furthermore, as the parties know, the Court has the

obligation, in a mass tort case like this, to ensure the fairness of settlements entered into. See *In re World Trade Center Disaster Site Litig.*, 21 MC 100 (Doc. No. 2091) (S.D.N.Y. June 23, 2010); *In re Zyprexa Liability Litig.*, 424 F. Supp. 2d 488, 491-92 (E.D.N.Y. 2006).

The Court will hold a hearing at 4.00pm on Monday June 23, 2014, in Courtroom 14D, 500 Pearl Street, New York, NY 10007 to address these stipulations. The parties are invited to submit before then, and on any schedule convenient to them, full explanations of the events and proceedings relating to the tendered stipulations.

SO ORDERED.

Dated: May ²⁹ 2014
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge