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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Valina, Inc, dba Car Tex, a California  
corporation,

No. CV-08-1115-PHX-DGC

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Plaintiff,

**ORDER**

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vs.

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American Muffler; and Carlos Lopez,

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Defendants.

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Plaintiff commenced this action by filing a complaint against American Muffler and Carlos Lopez on June 13, 2008. Dkt. #1. Plaintiff subsequently attempted to serve American Muffler with process by serving Luis Lopez, the purported owner of American Muffler, with copies of the summons and complaint. Dkt. #10. Luis Lopez has filed a motion to dismiss for insufficient service of process. Dkt. #11. Mr. Lopez asserts that he is neither the owner of American Muffler nor authorized to accept service on its behalf. *Id.* at 2.

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Mr. Lopez is not named as a defendant in the complaint, nor is he listed on the summons as a party to be served with process. *See* Dkt. ##1, 10. Mr. Lopez has not demonstrated that he has standing to seek dismissal of the claims asserted against American Muffler. The Court will therefore deny the motion to dismiss.

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It appears that Plaintiff wishes to voluntarily dismiss this action without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. Plaintiff has twice filed a notice of dismissal, but each time the notice erroneously listed the United States as plaintiff.

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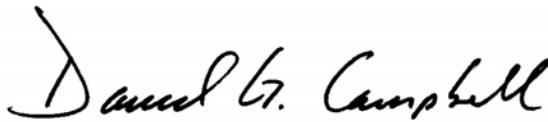
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1 Dkt. ##12-13. Plaintiff shall, by **September 26, 2008**, file either a proper notice of dismissal  
2 or a report regarding the status of the case. The case will be dismissed pursuant to Rule 41(b)  
3 if Plaintiff fails to comply with this order. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th  
4 Cir.1992) (district court did not abuse its discretion in dismissing plaintiff's complaint for  
5 failing to comply with an order).

6 **IT IS ORDERED:**

- 7 1. Luis Lopez's motion to dismiss (Dkt. #11) is **denied**.
- 8 2. Plaintiff shall file a proper notice of dismissal or a status report by **September**  
9 **26, 2008**.
- 10 3. The Clerk is directed to terminate this action without further notice if Plaintiff  
11 fails to comply with this order.

12 DATED this 18th day of September, 2008.

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15 David G. Campbell  
16 United States District Judge  
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