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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Scott Huminski,

No. CV11-2352-PHX-JAT

10 Plaintiff,

ORDER

11 vs.

12 Maricopa County, et al.

13 Defendant.

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16 Plaintiff Scott Huminski filed a Notice of Dismissal pursuant to Federal Rule of Civil
17 Procedure 41(a)(1)(i) on March 26, 2012. (Doc. 19.) Plaintiff correctly notes that he has the
18 right to dismiss his case without a Court Order because he filed his Notice of Dismissal
19 before any party had served an answer or a motion for summary judgment. F.R.Civ.P.
20 41(a)(1)(I).

21 In his Notice, Plaintiff writes, “this case is dismissed without prejudice as to all
22 defendants who have not filed a responsive pleading.” (Doc. 19 p.2.) No Defendant has
23 filed a responsive pleading in this case because no Defendant has filed an answer. Defendant
24 Tim Dorn filed a Motion to Dismiss (Doc. 16), but a motion to dismiss is not a responsive
25 pleading within the meaning of the Federal Rules of Civil Procedure. *Randle v. Crawford*,
26 604 F.3d 1047, 1052 (9th Cir. 2010); *Shaver v. Operating Engineers Local 428 Pension*
27 *Trust Fund*, 332 F.3d 1198, 1201 (9th Cir. 2003).

28 The Court therefore construes Plaintiff’s Notice as a voluntary dismissal of his entire

1 case. No Defendant has filed a response to the Notice of Dismissal. Pursuant to Local Rule
2 of Civil Procedure 7.2(i), the Court deems the failure to respond as consent to dismissal
3 without prejudice.

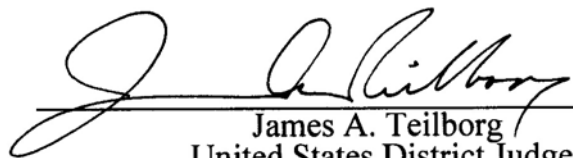
4 Accordingly,

5 **IT IS HEREBY ORDERED** pursuant to Plaintiff's Notice of Dismissal (Doc. 19),
6 that this case is dismissed in its entirety without prejudice.

7 **IT IS FURTHER ORDERED** denying as moot all pending motions in this case.

8 DATED this 25th day of April, 2012.

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James A. Teilborg
United States District Judge