

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

ALFRED R. KIDD,	)	
	)	
Plaintiff,	)	Case No. CV 01:06-1098 BLW MHW
	)	
v.	)	<b>ORDER</b>
	)	
V. BIGGS, et al.,	)	
	)	
Defendants.	)	
_____	)	

Pending before the Court is Plaintiff's Notice of Motion and Motion for Order Under FRCP 41(a)(2) [and] Voluntary Dismissal. (Docket No. 51.) Defendants have not filed a response. When ruling on a motion to dismiss without prejudice under Rule 41(a)(2) of the Federal Rules of Civil Procedure, the court "must determine whether the defendant will suffer some plain legal prejudice as a result of the dismissal." *Westlands Water Dist. v. United States*, 100 F.3d 94, 96 (9th Cir. 1996). Legal prejudice means prejudice to "some legal interest, some legal claim, [or] some legal argument." *Id.* at 97. Here, the Court finds no legal prejudice to Defendants from dismissal without prejudice.

**ORDER**

NOW THEREFORE IT IS HEREBY ORDERED that Plaintiff's Motion (Docket No. 51) is GRANTED, and this cause of action is DISMISSED without prejudice.

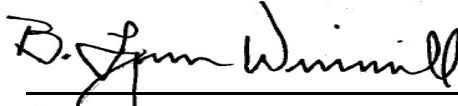
In light of this ruling, the following Motions are now DISMISSED as MOOT:

**ORDER - 1**

Plaintiff's Motion for Extension of Time (Docket No. 47), Defendants' Motion to Modify Scheduling Order (Docket No. 48), and Defendants' Motion for Summary Judgment (Docket No. 49).



DATED: **June 18, 2010**

  
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Honorable B. Lynn Winmill  
Chief U. S. District Judge