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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DANIEL MANRIQUEZ,)	1:09-cv-00456-BAM (PC)
)	
Plaintiff,)	ORDER CLOSING CASE IN LIGHT OF
)	UNOPPOSED REQUEST TO DISMISS
v.)	
)	(ECF No. 378)
J. HUCHINS, et al.,)	
)	
Defendants.)	
)	
)	
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)	

Plaintiff Daniel Manriquez (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On March 31, 2014, the parties participated in a settlement conference and reached a verbal settlement agreement. Dispositional documents were to be filed within six months. (ECF No. 352.)

On February 2, 2015, Plaintiff filed a motion requesting voluntary dismissal of this action. Plaintiff explains that Defendants have complied with the agreement by forwarding a payment check to his mother. Plaintiff therefore requests that this Court dismiss the action with prejudice. (ECF No. 378.)

On February 18, 2015, Defendants Hutchins, Reynoso, Hacker, Roberson, Munoz, Morse, Pas, Omos and Clausings submitted a status report. Defendants join in Plaintiff’s request to dismiss this matter. (ECF No. 379.)

Where a defendant has served an answer or a motion for summary judgment but has not signed a stipulation to dismiss, a plaintiff’s voluntary dismissal must be effected through Rule of

1 Civil Procedure 41(a)(2). See Fed. R. Civ. P. 41(a); Wilson v. City of San Jose, 111 F.3d 688,
2 692 (9th Cir. 1999). Rule 41(a)(2) provides in relevant part: “Except as provided in Rule
3 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that
4 the court considers proper. . . . Unless the order states otherwise, a dismissal under this paragraph
5 (2) is without prejudice.” Fed. R. Civ. P. 41(a)(2); Hargis v. Foster, 312 F.3d 404, 412 (9th Cir.
6 2003). “A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless
7 a defendant can show that it will suffer some plain legal prejudice as a result.” Smith v. Lenches,
8 263 F.3d 972, 975 (9th Cir. 2001).

9 In this instance, Defendants join in the request to dismiss this action. Given Defendants’
10 non-opposition, the Court finds no reason to deny Plaintiff’s request for voluntary dismissal
11 under Rule 41(a)(2). Therefore, the Court shall grant the motion and close this action. See Fed.
12 R. Civ. P. 41(a)(2); Hargis, 312 F.3d at 412; Smith, 263 F.3d at 975.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff’s motion for voluntary dismissal with prejudice under Rule 41(a)(2) is
15 GRANTED;
- 16 2. All pending motions, if any, are TERMINATED; and
- 17 3. The Clerk of the Court is directed to CLOSE this case.

18 This terminates the action in its entirety.

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20 IT IS SO ORDERED.

21 Dated: March 2, 2015

22 /s/ Barbara A. McAuliffe
23 UNITED STATES MAGISTRATE JUDGE
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