

1
2
3
4
5 **IN THE UNITED STATES DISTRICT COURT FOR THE**
6 **EASTERN DISTRICT OF CALIFORNIA**

7 DENNIS RENUK,) 1:10-cv-1862 AWI JLT
8)
9 Plaintiff,) ORDER CLOSING THE CASE
10) DUE TO VOLUNTARY
11 v.) DISMISSAL WITHOUT
12) PREJUDICE
13 LAW OFFICES OF JOHN C.)
14 BONEWICZ, P.C.; and DOES 1-10)
15 inclusive,)
16 Defendant.)
17 _____)

18
19 On December 20, 2010, Plaintiff filed a request for dismissal of this case without
20 prejudice. This notice is made pursuant to Federal Rule of Civil Procedure 41(a)(1)(i).

21 In Wilson v. City of San Jose, the Ninth Circuit explained:

22 Under Rule 41(a)(1), a plaintiff has an absolute right to voluntarily dismiss his
23 action prior to service by the defendant of an answer or a motion for summary
24 judgment. Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995) (citing
25 Hamilton v. Shearson-Lehman American Express, 813 F.2d 1532, 1534 (9th Cir.
26 1987)). A plaintiff may dismiss his action so long as the plaintiff files a notice of
27 dismissal prior to the defendant's service of an answer or motion for summary
28 judgment. The dismissal is effective on filing and no court order is required. Id.
The plaintiff may dismiss some or all of the defendants, or some or all of his
claims, through a Rule 41(a)(1) notice. Id.; Pedrina v. Chun, 987 F.2d 608, 609-
10 (9th Cir. 1993). The filing of a notice of voluntary dismissal with the court
automatically terminates the action as to the defendants who are the subjects of
the notice. Concha, 62 F.2d at 1506. Unless otherwise stated, the dismissal is
ordinarily without prejudice to the plaintiff's right to commence another action for
the same cause against the same defendants. Id. (citing McKenzie v. Davenport-
Harris Funeral Home, 834 F.2d 930, 934-35 (9th Cir. 1987)). Such a dismissal
leaves the parties as though no action had been brought. Id.

1 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997).

2 No answers to Plaintiff's complaint and no motions for summary judgment have been
3 filed in this case and it appears that no such answers or summary judgment motions have been
4 served. Because Plaintiff has exercised his right to voluntarily dismiss the complaint under Rule
5 41(a)(1), this case has terminated. See Wilson, 111 F.3d at 692.
6

7 Therefore, IT IS HEREBY ORDERED that the Clerk of the Court is DIRECTED to close
8 this case in light of Plaintiff's Rule 41(a)(1)(i) requested dismissal without prejudice.
9

10 IT IS SO ORDERED.

11 Dated: January 3, 2011

12 
13 CHIEF UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28