

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

NAUTILUS INSURANCE COMPANY,

NO. 1:14-cv-01591-GEB-BAM

Plaintiff,

v.

ACCESS MEDICAL, LLC; ROBERT CLARK WOOD, II; FLOURNOY MANAGEMENT, LLC; TED SWITZER; and DOES 1-10, inclusive

ORDER GRANTING PLAINTIFF'S  
MOTION FOR VOLUNTARY DISMISSAL  
WITHOUT PREJUDICE\*

## Defendants.

Plaintiff moves for an order that effectuates its desire to voluntarily dismiss this declaratory relief action without prejudice under Federal Rule of Civil Procedure ("Rule") 41(a)(2). Plaintiff argues this "dismissal . . . will not result in plain legal prejudice to any . . . defendant[] named herein." (Mot. for Voluntary Dismissal 3:1-2, ECF No. 28.)

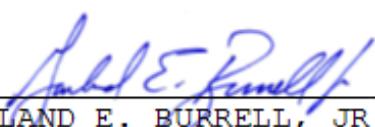
A Rule 41(a)(2) motion for voluntarily dismissal "is addressed to the district court's sound discretion." Stevedoring Serv. of Am. v. Armilla Intern. B.V., 889 F.2d 919, 921 (9th Cir. 1989). "A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result." Smith v. Lenchies, 263 F.3d 972, 975 (9th Cir. 2001). "[L]egal prejudice"

\* The hearing on February 17, 2015, is vacated since this matter is suitable for decision without oral argument. E.D. Cal. R. 230(g).

1 means 'prejudice to some legal interest, some legal claim, some  
2 legal argument.'" Id. at 976 (quoting Westlands Water Dist. v.  
3 United States, 100 F.3d 94, 97 (9th Cir. 1996)).

4 It has not been shown that any Defendant will suffer  
5 plain legal prejudice if the motion is granted. Therefore, this  
6 action is dismissed without prejudice, and the Clerk of Court  
7 shall close the action.

8 Dated: February 12, 2015

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11 GARLAND E. BURRELL, JR.  
12 Senior United States District Judge

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