

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

DENA PHILLIPS,

Plaintiff,

V.

ENHANCED RECOVERY COMPANY,
LLC.

Defendant.

Case No.: 1:14-cv-1770

**ORDER DIRECTING THE CLERK TO
ADMINISTRATIVELY CLOSE THIS
CASE**

On January 7, 2015, Plaintiff, DENA PHILLIPS, filed a Notice of Voluntary Dismissal Without Prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Doc. 9.

Rule 41(a)(1)(A), in relevant part, provides:

[T]he plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Rule 41(a)(1)(B) further provides that a dismissal pursuant to Rule 41(a)(1)(A) is without prejudice “[u]nless the notice or stipulation states otherwise.”

A notice of dismissal under Rule 41(a)(1) is self-executing; a court order is not required to effectuate the dismissal. *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) (“The

1 dismissal is effective on filing [of a notice pursuant to Rule 41(a)(1)] and no court order is
2 required.”). “Filing a notice of voluntary dismissal with the court automatically terminates the
3 action as to the defendants who are the subjects of the notice.” *Id.* “Such a dismissal leaves the
4 parties as though no action had been brought.” *Id.*

5 Here Plaintiff has filed a notice of voluntary dismissal indicating that she “voluntarily
6 dismisses this case, without prejudice, against Defendant, Enhanced Recovery Company, LLC.”
7 Doc. 9. Defendant Enhanced Recovery Company, LLC has not yet filed an answer or a motion
8 for summary judgment in the case. Therefore, pursuant to Rule 41(a)(1)(A)(i), the dismissal of
9 the action, without prejudice, was effective upon the filing of Plaintiff’s notice of voluntary
10 dismissal. Accordingly, the Clerk of Court is directed to administratively close this case.

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13 IT IS SO ORDERED.

14 Dated: January 9, 2015

15 /s/ Gary S. Austin
16 UNITED STATES MAGISTRATE JUDGE

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