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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CYNTHIA HOPSON,
Plaintiff,

v.

VALHALLA PROPERTY HOLDING LLC,
et al.,
Defendants.

Case No. 1:16-cv-01798-AWI-SAB

ORDER DISCHARGING ORDER TO
SHOW CAUSE AND DIRECTING CLERK
OF COURT TO CLOSE CASE AND
ADJUST DOCKET TO REFLECT
VOLUNTARY DISMISSAL WITH
PREJUDICE

(ECF Nos. 13, 14, 15)

This action was filed on November 28, 2016. (ECF No. 1.) On July 17, 2017, Plaintiff filed a notice of settlement and an order issued directing Plaintiff to file dispositive documents within seventy five days. (ECF Nos. 11, 12.) Plaintiff did not timely file dispositive documents and an order to show cause why sanctions should not issue for the failure to comply was filed on October 4, 2017.

On October 8, 2017, Plaintiff filed a response to the order to show cause and a notice of voluntary dismissal with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. While Plaintiff fails to provide cause for the failure to file timely dispositive documents, the Court shall discharge the October 4, 2017 order. Counsel for Plaintiff is advised that notice of the repeated failures to comply have been taken and he should put in place procedures to ensure that this trend not continue in the future or sanctions will issue.

1 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his
2 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”
3 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
4 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
5 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet
6 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th
7 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,
8 the parties are left as though no action had been brought, the defendant can’t complain, and the
9 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
10 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The order to show cause filed October 4, 2017, is DISCHARGED; and
- 13 2. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust
14 the docket to reflect voluntary dismissal with prejudice of this action pursuant to
15 Rule 41(a).

16 IT IS SO ORDERED.

17 Dated: October 10, 2017

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20 UNITED STATES MAGISTRATE JUDGE