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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HUMPHREY LAU,

Plaintiff,

No. 2:10-cv-2129 MCE DAD PS

v.

KATHI PYLMAN, et al,

Defendants.

ORDER

_____ /

On June 30, 2010, plaintiff, proceeding pro se, filed a complaint in the Sacramento County Superior Court. By notice filed August 9, 2010, defendant Federal Home Loan Mortgage Corporation removed the case to federal court pursuant to 12 U.S.C. § 1452(f) and 28 U.S.C. §§ 1331 and 1442. The case has been referred to the undersigned pursuant to Local Rule 302(c)(21).

On October 22, 2012, the court ordered plaintiff to show good cause in writing, no later than November 16, 2012, for his failure to respond to defendants’ motion to dismiss which had been filed July 27, 2012, and to show why sanctions should not be imposed for his failure to file a timely opposition or non-opposition to defendants’ motion to dismiss. (Doc. No. 50.)

On October 26, 2012, plaintiff filed a response to the court’s October 22, 2012 order to show cause. Therein, plaintiff stated that a “settlement” had been reached “between

1 defendants and plaintiff.” (Doc. No. 51 at 1.) Plaintiff stated that pursuant to that settlement he
2 had “executed a release as well as the request for dismissal of the entire case . . .” (Id.)
3 According to plaintiff, “Defendants were responsible to file the dismissal” and it was “beyond
4 Plaintiff’s control if defendants’ counsel failed to file the dismissal.” (Id.)

5 Thereafter, on October 29, 2012, plaintiff filed a notice of voluntary dismissal
6 with prejudice of his action pursuant to Federal Rule of Civil Procedure 41(a) against defendants
7 Federal Home Loan Mortgage Corporation and Homesteps, the only defendants remaining in this
8 action who have appeared. (Doc. No. 52.)

9 The court finds that plaintiff has filed a notice of voluntary dismissal in which he
10 seeks to dismiss this entire action pursuant to Federal Rule of Civil Procedure 41(a). No
11 defendant has filed an answer or a motion for summary judgment in this court, and it does not
12 appear that any defendant filed an answer or a motion for summary judgment in the state court
13 prior to removal. Therefore, plaintiff’s voluntary dismissal of this action is proper pursuant to
14 Rule 41(a)(1)(A)(i).

15 Accordingly, IT IS ORDERED that:

16 1. Defendant Federal Home Loan Mortgage Corporation and defendant
17 Homesteps are dismissed from this action with prejudice pursuant to plaintiff’s October 29, 2012
18 notice of voluntary dismissal with prejudice (Doc. No. 52);

19 2. The July 27, 2012 motion to dismiss (Doc. No. 47) filed on behalf of defendant
20 Federal Home Loan Mortgage Corporation and defendant Homesteps, having been rendered
21 moot by plaintiff’s voluntary dismissal, is denied and dropped from the court’s November 30,
22 2012 calendar; and

23 3. This action is closed.

24 DATED: November 13, 2012.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE