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

ARNEL FRANCISCO and  
JANETH FRANCISCO,

Plaintiffs,

No. CIV S-10-2594 JAM DAD PS

v.

GREENPOINT MORTGAGE  
FUNDING, INC.; OLD REPUBLIC  
TITLE COMPANY; MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS, INC.; LANDMARK  
HOMES REALTY,

Defendants.

ORDER

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Plaintiffs, who are proceeding pro se in this action, have filed a notice of voluntary dismissal of all claims against defendants Old Republic Title Company and Landmark Homes Realty.

Under the Federal Rules of Civil Procedure, a plaintiff may voluntarily dismiss an action by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A). The Ninth Circuit has held that Rule 41(a)(1)(A) permits partial dismissal where the plaintiff dismisses all claims against a defendant. Gen. Signal Corp. v. MCI Telecom. Corp., 66 F.3d 1500, 1513 (9th Cir. 1995) (“Rule

1 41 is reserved for circumstances in which the result of the alleged dismissal is that one or all of  
2 the defendants are released from the action.”); Ethridge v. Harbor House Restaurant, 861 F.2d  
3 1389, 1392 (9th Cir. 1988) (holding that Rule 41 applies to complete dismissal as to all  
4 defendants, or partial dismissal of all claims against a defendant). Here, plaintiffs’ notice of  
5 voluntary dismissal specifies dismissal of all claims against defendants Old Republic Title  
6 Company and Landmark Homes Realty. Neither defendant has served an answer or a motion for  
7 summary judgment.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. In accordance with plaintiffs’ December 7, 2010 notice of voluntary dismissal  
10 (Doc. No. 14), defendants Old Republic Title Company and Landmark Homes Realty are  
11 dismissed from this action without prejudice pursuant to Rule 41(a)(1)(A)(i).

12 2. Defendant Old Republic Title Company’s motion to dismiss (Doc. No. 6),  
13 which was argued and submitted on November 19, 2010, is denied as moot.

14 3. Defendant Landmark Homes Realty’s motion to dismiss (Doc. No. 10) is  
15 dropped from the court’s December 17, 2010 calendar and is denied as moot.

16 4. On or before January 25, 2011, plaintiffs shall file a return of service that  
17 shows service of a summons and complaint on defendants Greenpoint Mortgage Funding, Inc.  
18 and Mortgage Electronic Registration Systems, Inc. in a manner authorized by Federal Rule of  
19 Civil Procedure 4(h), or plaintiffs shall file a declaration showing good cause for failing to effect  
20 proper service on these defendants in a timely manner. See Fed. R. Civ. P. 4(m).

21 DATED: December 14, 2010.

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25 DALE A. DROZD  
26 UNITED STATES MAGISTRATE JUDGE

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