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

HICA EDUCATION LOAN CORPORATION,

Plaintiff,

No. 2:11-cv-02964 JAM KJN PS

v.

JAMES C. ADAMS,

Defendant.

ORDER

On May 18, 2012, plaintiff filed a Notice of Dismissal Without Prejudice seeking to dismiss this action as a result of a settlement reached by the parties (Dkt. No. 20).¹ The notice is not signed by defendant.

Because defendant already filed an answer in this case (Dkt. No. 6), plaintiff is not entitled to unilaterally dismiss this case without a court order pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Moreover, plaintiff’s notice does not constitute an immediately effective stipulation of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) because it is not signed by defendant. Accordingly, plaintiff must obtain a “court order, on terms that the court considers proper,” in order to effect the voluntary dismissal of this action pursuant

¹ This case proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 to Federal Rule of Civil Procedure 41(a)(2). By this order, the undersigned directs defendant to
2 respond to plaintiff's filing, which is construed as a motion for dismissal of the action.

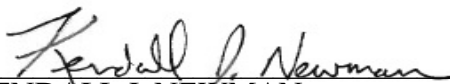
3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Within 21 days of the date of this order, defendant shall file a response to
5 plaintiff's request for voluntary dismissal of this action that indicates: (1) defendant's view
6 regarding whether the dismissal should be with or without prejudice, and (2) whether defendant
7 seeks the imposition of any appropriate conditions on the dismissal sought by plaintiff. After
8 receiving defendant's response, the undersigned will recommend the dismissal of this action on
9 proper terms.

10 2. *Alternatively*, within 14 days of the date of this order, the parties may file a
11 stipulation of dismissal as provided in Federal Rule of Civil Procedure 41(a)(1)(A)(ii), which
12 would effectuate the immediate dismissal of this case without a court order.

13 IT IS SO ORDERED.

14 DATED: May 22, 2012

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE
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