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

DONALD G. ROSENE;
SHAUN L. ROSENE,

Plaintiffs,

No. CIV S-12-107 KJM EFB PS

vs.

AMERICAN BROKERS CONDUIT;
PLACER TITLE COMPANY;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
DEFAULT RESOLUTIONS NETWORK;
POWER DEFAULT SERVICES, INC.;
and DOES 1 through 520, inclusive,

ORDER

Defendants.

_____ /
This case, in which plaintiffs are proceeding pro se, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). See 28 U.S.C. § 636(b)(1). Defendants Mortgage Electronic Registration Systems, Inc., Power Default Services, Inc, and Placer Title Company move to dismiss plaintiff’s complaint. Dckt. Nos. 5, 9. The hearings on the motions were continued to April 25, 2012 due to plaintiffs’ failure to respond thereto, and plaintiffs were ordered to show cause why this action should not be dismissed for lack of prosecution and/or for failure to comply with court orders and this court’s Local Rules. Dckt. Nos. 10, 11.

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1 However, on April 6, 2012, plaintiffs filed a request to voluntarily dismiss this action
2 without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). Dckt. No. 12. Plaintiffs
3 contend that they are currently in review for a loan modification which may resolve the issues in
4 dispute in this case, and that if the loan modification does not resolve those issues, they desire to
5 obtain counsel before re-commencing the action. *Id.* at 2.

6 Because defendants have not filed either an answer or a motion for summary judgment,
7 the court construes plaintiff's April 6, 2012 request to voluntarily dismiss this action as a notice
8 of dismissal made pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I), which deprives
9 this court of jurisdiction over the action. *See* Fed. R. Civ. P. 41(a)(1)(A) (“[T]he plaintiff may
10 dismiss an action without a court order by filing . . . (I) a notice of dismissal before the opposing
11 party serves either an answer or a motion for summary judgment”); *see also* Fed. R. Civ. P.
12 41(a)(1)(B) (“Unless the notice [of dismissal] states otherwise, the dismissal is without
13 prejudice.”). Dismissal under this rule requires no action on the part of the court and divests the
14 court of jurisdiction once the notice of voluntary dismissal is filed. *See, e.g., United States v.*
15 *Real Property Located at 475 Martin Lane, Beverly Hills, CA*, 545 F.3d 1134, 1145 (9th Cir.
16 2008). In light of that dismissal, the Clerk of Court is directed to close this case.

17 SO ORDERED.

18 DATED: April 10, 2012.

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20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
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