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7 UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA
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10 LAW SCHOOL ADMISSION
11 COUNCIL, INC.,

NO. CIV. S-13-0040 LKK/DAD

12 Plaintiff,

13 v.

O R D E R

14 THE STATE OF CALIFORNIA;
15 EDMUND G. BROWN, JR., in his
16 official capacity as Governor
17 of the State of California;
18 KAMALA HARRIS, in her official
19 capacity as Attorney General
20 of the State of California; and
21 TOM TORLAKSON, in his official
22 capacity as Superintendent of
23 Public Instruction and Director
24 of Education for the State of
25 California,

26 Defendants.

27 The court is in receipt of the Defendant State of California's
28 filed bill of costs in the above-captioned matter, ECF No. 6, as
29 well as Plaintiff Law School Admission Council, Inc.'s filed
30 objections to the bill of costs, ECF No. 7.

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1 Defendants seek \$523.23 for the costs of filing, serving, and
2 copying their notice of removal of this case from the Sacramento
3 County Superior Court, as well as attendant costs for postage and
4 mileage. See Defs' Bill of Costs, ECF No. 6.

5 According to Federal Rule of Civil Procedure 54, "[u]nless a
6 federal statute, these rules, or a court order provides otherwise,
7 costs--other than attorney's fees--should be allowed to the
8 prevailing party." Fed.R.Civ.P. 54(d)(1).


9 On January 9, 2013, Plaintiff Law School Admission Council,
10 Inc., voluntarily dismissed this action, pursuant to Federal Rule
11 of Civil Procedure 41(a)(1)(A)(i), before any answer or motion for
12 summary judgment on the part of the Defendants' was filed or
13 served. Pl's Not., ECF No. 5.

14 This type of voluntary dismissal, pursuant to Federal Rule of
15 Civil Procedure 41(a)(1), "leaves the parties as though no action
16 had been brought." Wilson v. City of San Jose, 111 F.3d 688, 692
17 (9th Cir. 1997). Because, here, the parties are left as though no
18 action had been brought, neither party has prevailed in the action.
19 Defendants are, therefore, not entitled to the costs typically
20 awarded to a prevailing party under Federal Rule of Civil Procedure
21 54.

22 Defendants' bill of costs, ECF No. 6, is DENIED in its
23 entirety.

24 IT IS SO ORDERED.

25 DATED: February 28, 2013.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT