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9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**
12

13 RONALD W. JACKSON and DONNA L.
14 JACKSON,

15 Plaintiffs,

16 v.

17 WELLS FARGO BANK, N.A.; REGIONAL
18 SERVICE CORP.; RTS APCIFIC, INC.; and
19 DOES 1 through 50 inclusive,

20 Defendants

Case No. 2:14-CV-02997-WBS-CMK

Assigned to Hon. William B. Shubb

REQUEST FOR DISMISSAL

ORDER

21 Come now plaintiffs, RONALD W. JACKSON and DONNA L. JACKSON, by and through
22 their attorney of record, Marc Applbaum, and respectfully request the court to dismiss the above
23 referenced case without prejudice as to all parties and all causes of action.

24 DATED: February 23, 2014

KETTNER LAW CORPORATION

25 BY: /s/Marc Applbaum
26 MARC APPLBAUM
27 Attorney for Plaintiffs,
28

2 **ORDER**

3 Plaintiffs have filed a request to dismiss this action. In Wilson v. City of San Jose, the Ninth
4 Circuit explained the ramifications of a Plaintiffs' request to dismiss pursuant to Rule 41(a)(1) of the
5 Federal Rules of Civil Procedure:

6 Under Rule 41(a)(1), a plaintiff has an absolute right to voluntarily dismiss his action prior to
7 service by the defendant of an answer or a motion for summary judgment. *Concha v. London*,
8 62 F.3d 1493, 1506 (9th Cir. 1995) (citing *Hamilton v. Shearson-Lehman American Express*,
9 813 F.2d 1532, 1534 (9th Cir. 1987)). A plaintiff may dismiss his action so long as the plaintiff
10 files a notice of dismissal prior to the defendant's service of an answer or motion for summary
11 judgment. The dismissal is effective on filing and no court order is required. *Id.* The plaintiff
12 may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1)
13 notice. *Id.*; *Pedrina v. Chun*, 987 F.2d 608, 609-10 (9th Cir. 1993). The filing of a notice of
14 voluntary dismissal with the court automatically terminates the action as to the defendants who
15 are the subjects of the notice. *Concha*, 62 F.2d at 1506. Unless otherwise stated, the dismissal is
16 ordinarily without prejudice to the plaintiff's right to commence another action for the same
17 cause against the same defendants. *Id.* (citing
18 *McKenzie v. Davenport-Harris Funeral Home*, 834 F.2d 930, 934-35 (9th Cir. 1987)). Such a
19 dismissal leaves the parties as though no action had been brought. *Id.*

20 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)

21 No answers to Plaintiffs' complaint and no motions for summary judgment have been filed in
22 this case and it appears that no such answers or summary judgment motions have been served. Because
23 Plaintiffs have exercised their right to voluntarily dismiss this complaint under Rule 41(a)(1), this case
24 has terminated as explained.

25 Therefore, IT IS HEREBY ORDERED that the Clerk of the Court is ordered to close this case
26 in light of Plaintiff's Rule 41(a)(1) Voluntary Dismissal.

27 IT IS SO ORDERED.

28 Dated: March 5, 2015



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE