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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JANET J. STURKEY,  
  
Plaintiff,  
  
v.  
  
OCWEN LOAN SERVICING, LLC, et  
al.  
  
Defendant.

No. 2:15-cv-00134-MCE-CKD

**MEMORANDUM AND ORDER**

Presently before the Court is Plaintiff Janet J. Sturkey’s unopposed Request for Dismissal (ECF No. 9). Federal Rule of Civil Procedure Rule 41(a)(2)<sup>1</sup> provides:

Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff’s motion to dismiss, the action may be dismissed over the defendant’s objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice.

“[A] district court should grant a motion for voluntary dismissal unless a defendant can show that it will suffer some plain legal prejudice as a result.” Waller v. Fin. Corp. of America, 828 F.2d 579, 583 (9th Cir. 1987); see also Hamilton v. Firestone Tire &

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<sup>1</sup> All subsequent references to “Rule” or “Rules” are to the Federal Rules of Civil Procedure.

1 Rubber Co., 679 F.2d 143, 145-46 (9th Cir. 1982). The Ninth Circuit has clarified that  
2 “legal prejudice” means “prejudice to some legal interest, some legal claim, some legal  
3 argument.” Smith v. Lenches, 263 F.3d 972, 976 (9th Cir. 2001) (quoting Westlands  
4 Water Dist. v. United States, 100 F.3d 94, 97 (9th Cir. 1996)). Further, mere “uncertainty  
5 because a dispute remains unresolved” does not result in plain legal prejudice; nor does  
6 uncertainty due to the threat of future litigation. Id. Finally, plain legal prejudice does not  
7 result merely because a defendant will be inconvenienced by having to defend in  
8 another forum or where a plaintiff would gain a tactical advantage through dismissal.  
9 Hamilton, 679 F.2d at 145.

10 Defendants have not filed an opposition to Plaintiff’s Request, or otherwise  
11 established that they will suffer some plain legal prejudice as a result of dismissal.  
12 Accordingly, pursuant to Rule 41(a)(2), Plaintiff’s Request for Dismissal is hereby  
13 GRANTED. This case is DISMISSED without prejudice as to all parties and all causes  
14 of action. Defendants’ Motion to Dismiss (ECF No. 4) is DENIED as moot.

15 IT IS SO ORDERED.

16 Dated: April 2, 2015

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20 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
21 UNITED STATES DISTRICT COURT  
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