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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BILLY Z. EARLEY, et al.,
Plaintiffs,
v.
EDMUND GERALD BROWN, JR., et al.,
Defendants.

No. 2:18-cv-0723 JAM DB PS

ORDER

This action came before the court on June 15, 2018, for hearing of defendants’ motion to dismiss.¹ (ECF No. 17.) Attorney Anna Ferrari appeared telephonically on behalf of the defendants. No appearance was made by, or on behalf of, plaintiff Billy Earley or plaintiff Guven Uzun. However, that same day plaintiffs filed a motion for dismissal without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. (ECF No. 15.)

Under Rule 41(a)(1), a plaintiff has an absolute right voluntarily to dismiss his action prior to service by the defendant of an answer or a motion for summary judgment. Even if the defendant has filed a motion to dismiss, the plaintiff may terminate his action voluntarily by filing a notice of dismissal under Rule 41(a)(1). The dismissal is effective on filing and no court order is required.

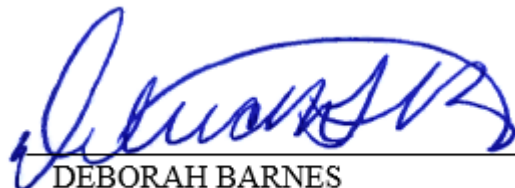
Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995) (citations omitted); see also Cruz-Mendez

¹ Plaintiffs are proceeding in this action pro se. This matter was, therefore, referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 v. Hospital General Castaner, Inc., 637 F.Supp.2d 73, 75 (D. Puerto Rico 2009) (“Since Rule
2 41(a)(1)(A) permits dismissal as of right, it requires only notice to the court, not a motion, thus
3 the court’s permission is not required.”).

4 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall close this
5 action in light of plaintiffs’ June 14, 2018 (ECF No. 15) dismissal without prejudice.

6 Dated: June 18, 2018

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9 DEBORAH BARNES
10 UNITED STATES MAGISTRATE JUDGE
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