

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

GENEE WOODSON,  
Plaintiff,  
v.  
HENDERSON, WEINSTEIN, WYATT  
& ASSOCIATES, INC.,  
Defendant.

No. 1:10-CV-02845-NJV  
ORDER DISMISSING CASE

This action was filed on June 28, 2010, and Plaintiff filed a consent to magistrate judge jurisdiction on August 16, 2010. (Docket No. 6.) On October 26, 2010, Plaintiff returned the summons issued in this case unexecuted. (Docket no. 8.) On November 4, 2010, Plaintiff filed a notice of voluntary dismissal of this action without prejudice. (Docket no. 9.)

A plaintiff may voluntarily dismiss an action without court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Fed. R. Civ.P. 41(a)(1)(A)(i). Here, Defendant was never served and thus never responded to the complaint. Thus, dismissal under Rule 41(a)(1)(A)(i) is proper. *But see* Rule 41(1)(B) (“if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.”)

Accordingly, this case is **HEREBY DISMISSED**. The Clerk is directed to close this case.

IT IS SO ORDERED.

Dated: March 11, 2013

  
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NANDOR J. VADAS  
United States Magistrate Judge