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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RODOLFO R. MIRAMONTES,)	
)	
Plaintiff(s),)	No. C 09-0325 CRB (PR)
)	
v.)	ORDER OF DISMISSAL
)	
HERBIE DEL CRUZ, et al.,)	
)	
Defendant(s).)	
_____)	

Plaintiff has filed a letter which the court construes as a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1) and, pursuant thereto, the above-captioned matter is DISMISSED without prejudice. See American Soccer Co. v. Score First Enters., 187 F.3d 1108, 1110 (9th Cir. 1999) (plaintiff's "absolute right" to dismiss his action voluntarily before defendants serve answer or motion for summary judgment leaves no role for court to play).

Based solely on plaintiff's affidavit of poverty in accompanying case C 08-5639 CRB, his request to proceed in forma pauperis is granted.

The clerk shall enter judgment in accordance with this order and close the file. An order in case C 08-5639 will issue shortly.

SO ORDERED.

DATED: Feb. 04, 2009



 CHARLES R. BREYER
 United States District Judge