



1 1995) (stating that, “[e]ven if the defendant has filed a motion to dismiss, the plaintiff may terminate  
2 his action voluntarily by filing a notice of dismissal under Rule 41(a)(1)”).


3 Accordingly, the Court hereby construes Plaintiffs’ motion for dismissal as a notice of  
4 dismissal under Rule 41(a)(1) and this action is deemed dismissed without prejudice. *See Randle v.*  
5 *Sarfan*, Nos. C 93-1927 VRW, C 93-1928 VRW, 1994 U.S. Dist. LEXIS 803, at \*1 (N.D. Cal. Jan.  
6 31, 1994) (construing plaintiff’s motion to dismiss as a notice of dismissal).

7 The hearing on Plaintiffs’ motion is VACATED, and the Clerk of the Court is instructed to  
8 close the file in this case.

9 This order disposes of Docket No. 34.

11 IT IS SO ORDERED.

13 Dated: January 22, 2010

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16 EDWARD M. CHEN  
17 United States Magistrate Judge