

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

IO GROUP INC,

No. C-10-04378 EDL

Plaintiff,

**ORDER RE DEFENDANT DAVID
SALERY'S OBJECTION TO MOTION
TO DISMISS WITHOUT PREJUDICE**

v.


ELVIS BARNETT, et al.,

Defendants.

On July 5, 2011, Plaintiff voluntarily dismissed Defendant David Salery without prejudice pursuant to Federal Rule of Civil Procedure 41(a), which permits Plaintiff to file a notice of voluntary dismissal before the opposing party serves an answer or a motion for summary judgment. Defendant Salery has not served an answer or filed a motion for summary judgment. Therefore, Plaintiff's dismissal of Mr. Salery took effect on the day that it was filed and on July 6, 2011, the court clerk terminated Mr. Salery as a Defendant in this case. On July 12, 2011, Mr. Salery filed an Objection to the Motion to Dismiss Without Prejudice. Because Rule 41(a) allows Plaintiff to dismiss Mr. Salery without prejudice, the Court cannot prevent Plaintiff from doing so.

IT IS SO ORDERED.

Dated: July 21, 2011


ELIZABETH D. LAPORTE
United States Magistrate Judge