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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 HICA EDUCATIONAL LOAN  
12 CORPORATION,

13 Plaintiff,

14 v.

15 DENISE M. HILLIARD,

16 Defendant.  
17 \_\_\_\_\_/

No. C-11-4401 MMC

**ORDER AFFORDING DEFENDANT  
OPPORTUNITY TO RESPOND TO  
PLAINTIFF'S NOTICE OF VOLUNTARY  
DISMISSAL**

18 Before the Court is plaintiff's Notice of Voluntary Dismissal, filed October 3, 2013, by  
19 which plaintiff gives notice he is dismissing his claims against defendants without prejudice.

20 Pursuant to the Federal Rules of Civil Procedure, a plaintiff may dismiss an action  
21 without a court order by filing notice of dismissal before a defendant has filed an answer or  
22 a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). Here, however,  
23 defendant has filed an answer. Consequently, in the absence of a stipulation signed by the  
24 defendant, see Fed. R. Civ. P. 41(a)(1)(A)(ii), the action may be dismissed "only by court  
25 order, on terms that the court considers proper," see Fed. R. Civ. P. 41(a)(2).

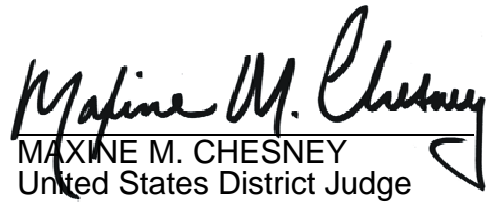
26 In the interests of judicial economy, the Court will construe plaintiff's Notice of  
27 Voluntary Dismissal as a motion to dismiss his claims without prejudice, and will afford  
28 defendant an opportunity to respond thereto.

Accordingly, defendant is hereby afforded leave to file, no later than October 18,

1 2013, any response to plaintiff's request to dismiss without prejudice. As of October 18,  
2 2013, unless the parties are otherwise informed, the Court will take the matter under  
3 submission.

4 **IT IS SO ORDERED.**

5  
6 Dated: October 4, 2013

  
MAXINE M. CHESNEY  
United States District Judge