

United States District Court  
For the Northern District of California

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

JERRY P. DIZON,	)	Case No. 12-4623-SC
	)	
Plaintiff,	)	ORDER DISMISSING CASE,
	)	RETAINING JURISDICTION OVER
v.	)	<u>DISCIPLINARY MATTER</u>
	)	
WELLS FARGO HOME MORTGAGE,	)	
	)	
Defendant.	)	
	)	

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On December 11, 2012, the Court adopted as its Order the recommendation of Magistrate Judge Nathanael Cousins that the complaint of Plaintiff Jerry Dizon against Defendant Wells Fargo Home Mortgage be dismissed. ECF No. 16. Since both Judge Cousins and the undersigned shared a concern over the lack of diligence evinced by Plaintiff's counsel, Mandip Purewal of the National Consumer Law Group, and because the record showed that Mr. Purewal had failed to comply with one of Judge Cousins's orders, the Court referred to Judge Cousins the matter of whether and how Mr. Purewal should be disciplined. Id.

On December 14, 2012, Plaintiff, through counsel, filed a request to have his case dismissed with prejudice. ECF No. 18. Though voluntary dismissals like the one requested here generally are without prejudice, see Fed. R. Civ. P. 41(a)(1)(B), Plaintiff

1 has a right to dismissal without a court order in this case,  
2 because Defendant has neither filed an answer nor a motion for  
3 summary judgment, see Fed. R. Civ. P. 41(a)(1)(A). Accordingly,  
4 the Court ORDERS that this case be DISMISSED WITH PREJUDICE,  
5 pursuant to Plaintiff's request.

6 However, Plaintiff's voluntary dismissal of his case does not  
7 divest the Court of jurisdiction over the pending disciplinary  
8 matter. See Williamson Family Trust v. CIT Group/Consumer Fin.,  
9 Inc., 205 F. App'x 616, 617 (9th Cir. 2006) (citing Cooter & Gell  
10 v. Hartmarx Corp., 496 U.S. 384, 395 (1990)); see also United  
11 States v. Real Prop. Located at 475 Martin Lane, Beverly Hills, CA,  
12 545 F.3d 1134, 1145 n.6 (9th Cir. 2008) (affirming Cooter & Gell's  
13 holding that district courts may consider collateral issues "such  
14 as attorney fees or sanctions" following voluntary dismissal). The  
15 Court retains jurisdiction over Plaintiff Dizon and Mr. Purewal for  
16 purposes of resolving the pending disciplinary matter. That matter  
17 remains referred to Judge Cousins.

18 The Court ORDERS Mr. Purewal to provide a true and complete  
19 copy of this Order to Plaintiff and to file a declaration stating  
20 he has done so within five (5) days of the signature date of this  
21 Order.

22  
23 IT IS SO ORDERED.

24  
25 Dated: December 19, 2012

  
UNITED STATES DISTRICT JUDGE