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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIKKEL LOWRIE, *et al.*,

No. C-13-0219 EMC

Plaintiffs,

v.

**ORDER RE PLAINTIFFS' MOTION TO
DISMISS CASE WITHOUT PREJUDICE**

JPMORGAN CHASE BANK, N.A., *et al.*,

(Docket No. 19)

Defendants.

Plaintiffs initiated this lawsuit in January 2013, asserting various claims related to the foreclosure of certain real property located in San Mateo, California. In February 2013, all of the named defendants (except one who has not made an appearance) moved to dismiss. *See* Docket No. 8 (motion). Plaintiffs failed to file a timely opposition to the motion. Thereafter, on March 25, 2013, Plaintiffs filed a motion to dismiss without prejudice pursuant to Federal Rule of Civil Procedure 41.

Under Rule 41(a), a plaintiff may voluntarily dismiss a lawsuit without a court order “by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A). “Unless the notice . . . states otherwise, the dismissal is without prejudice.” Fed. R. Civ. P. 41(a)(1)(A).

In the case at bar, no defendant has filed either an answer or a motion for summary judgment. At best, some of the defendants have filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Accordingly, Plaintiffs have the right to voluntary dismissal without

1 the need for an order from this Court. The Court therefore instructs the Clerk of the Court to close
2 the file in this case pursuant to Plaintiffs' voluntary dismissal.

3 This order disposes of Docket No. 19.

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5 IT IS SO ORDERED.

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7 Dated: March 27, 2013

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11 EDWARD M. CHEN
12 United States District Judge
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