

1
2
3
4
5
6
7
8

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

11 JOSE DANIEL CASTILLO-ANTONIO, No. C-13-2326 MMC
12 Plaintiff,
13 v.
14 KAOPOO SAEPHANH, et al.,
15 Defendants.

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

16
17 Before the Court is plaintiff's Notice of Voluntary Dismissal, filed September 16,
18 2013, by which plaintiff gives notice he is dismissing his claims against defendants without
19 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, each
23 of the three defendants named in the complaint has filed an answer. Consequently, in the
24 absence of a stipulation signed by all defendants, see Fed. R. Civ. P. 41(a)(1)(A)(ii), the
25 action may be dismissed "only by court order, on terms that the court considers proper,"
26 see Fed. R. Civ. P. 41(a)(2).

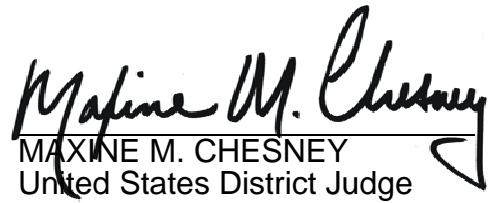
27 In the interests of judicial economy, the Court will construe plaintiff's Notice of
28 Voluntary Dismissal as a motion to dismiss without prejudice his claims against

1 defendants, and will afford defendants an opportunity to response thereto.

2 Accordingly, defendants are hereby afforded leave to file, no later than October 9,
3 2013, any response to plaintiff's request to dismiss without prejudice. As of October 9,
4 2013, unless the parties are otherwise informed, the Court will take the matter under
5 submission.

6 **IT IS SO ORDERED.**

7
8 Dated: September 25, 2013
9


MAXINE M. CHESNEY
United States District Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28