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Attorney for Plaintiffs, SANG IN LEE AND OK KEE LEE

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

SANG IN LEE AND OK KEE LEE Plaintiffs,) CASE NO. CV-09-4484)
PMC BANCORP, a corporation; QUALITY LOAN SERVICE CORP., a corporation; CAPITAL MORTGAGE GROUP, a corporation; and AURORA LOAN SERVICES, a corporation; and DOES 1 through 100, inclusive,	NOTICE OF DISMISSAL OF ENTIRE ACTION WITHOUT PREJUDICE PURSUANT TO RULE 41(a) or (c) F.R.Civ.P. AND ORDER
Defendants.))))

PLEASE TAKE NOTICE THAT this action is dismissed by Plaintiffs SANG IN LEE AND OK KEE LEE in its entirety without prejudice.

This dismissal is made pursuant to Rule 41(a) or (c) of the Federal Rules of Civil Procedure.

Plaintiffs have the absolute right to dismiss the action by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Fed. Rules Civ. Pro. §41(a)(1) (A)(i); see, Commercial Space Mgmt. Co., Inc., 193 Fed. 3d. 1074, 1077 (9th Cir. 1999) ("A court has no discretion to exercise once a Rule 41 (a)(1) dismissal is filed.").

Voluntary dismissal presumed "without" prejudice unless plaintiff's notice of dismissal states otherwise. Fed. Rules Civ. Pro. §41 (a)(1)(A), see Pedrina v. Chun, 987 Fed. 2d 608, 610, fn. 3 (9th Cir. 1993).

Plaintiff's absolute right to dismiss before an answer or a summary judgment motion is not affected by the amount of effort expended by defendant or how far the lawsuit has advanced. *See*American Soccer Co., Inc. v. Score First Enterprise, 187 Fed. 3d 1108, 1110-1112 (9th Cir. 1999).

DATED: November 4, 2009

Date: November 9, 2009

LAW OFFICES OF KAISER U. KHAN

<u>//s//</u>

Kaiser U. Khan Attorney for Plaintiffs, SANG IN LEE AND OK KEE LEE



11/17/09