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

E.K. WADE,

Plaintiff,

v.

KATPANA SUNDARAM, et al.,

Defendants.

No. C 10-04929 CW

ORDER ON
PLAINTIFF'S
MOTIONS TO
DISMISS AND
DENYING AS MOOT
DEFENDANTS'
MOTION TO DISMISS
AND MOTION TO
DEEM PLAINTIFF A
VEXATIOUS
LITIGANT

Pro se Plaintiff E.K. Wade has filed a motion to dismiss his verified complaint without prejudice and a motion to dismiss his second amended complaint without prejudice. The Court deems these motions to be notices of dismissal.

Federal Rule of Civil Procedure 41(a)(1)(A) affords Plaintiff the absolute right to dismiss his action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." See also Am. Soccer Co., Inc. v. Score First Enters., 187 F.3d 1108, 1110 (9th Cir. 1999). Defendants Katpana Sundaram, et al., have not answered Plaintiff's complaint or moved for summary judgment. Accordingly, Plaintiff's action is dismissed.

1 Defendants' motion to dismiss and motion to deem Plaintiff a
2 vexatious litigant are DENIED as moot. (Docket Nos. 24 and 25.)
3 The Clerk shall close the file.

4 IT IS SO ORDERED.

5 Dated: 2/7/2011



CLAUDIA WILKEN
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 WADE et al,

5 Plaintiff,

Case Number: CV10-04929 CW

6 v.

CERTIFICATE OF SERVICE

7 BROWN et al,

8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
10 Northern District of California.

11 That on February 7, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 E. K. Wade
16 307 Twin Bridge Circle
17 Pleasant Hill, CA 94523

Dated: February 7, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk