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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARK LETELL ADAMS,

No. C 12-01854 DMR

Plaintiff,

**ORDER TO SUBMIT ADDITIONAL  
INFORMATION**

v.

VIVO INC., *et al.*,Defendants.  

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The court is in receipt of *pro se* Plaintiff Mark Adams' Motion for Voluntary Dismissal, in which he appears to request the dismissal without prejudice of his three remaining claims for disparate treatment race discrimination, hostile work environment/harassment, and retaliation in accordance with Federal Rule of Civil Procedure 41. (Pl.'s Mot. 3-4.)

Pursuant to Federal Rule of Civil Procedure 41(a), "a plaintiff may dismiss an 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." Fed. R. Civ. P. 41(a)(1)(A)(i); *see Amer. Soccer Co., Inc. v. Score First Enters.*, 187 F.3d 1108, 1110 (9th Cir. 1999) ("The dismissal is effective on filing and no court order is required."). "The filing of a notice of voluntary dismissal with the court automatically *terminates the action* as to the defendants who are the subjects of the notice," and "[s]uch a dismissal leaves the parties as though no action had been brought." *Id.* (emphasis added). Here, it is unclear whether Plaintiff intended his motion to serve as a notice of dismissal pursuant to Rule

1 41(a)(1)(A)(i), which would automatically terminate this action, because he also requested “that all  
2 other proceedings before this Court remain open pending appeal of all issues presented” to the Ninth  
3 Circuit. (Pl.’s Mot. 4.) Accordingly, by no later than December 21, 2012, Plaintiff shall submit a  
4 statement clarifying whether he seeks to voluntarily dismiss his remaining claims pursuant to Rule  
5 41(a)(1)(A)(i). If Plaintiff does seek to voluntarily dismiss his claims, the effect of his filing will be  
6 voluntary dismissal of the three remaining claims and closure of the case without a court order.  
7 Plaintiff’s request for an extension of time to file a second amended complaint (Docket No. 79) is  
8 hereby held in abeyance pending the December 21, 2012 filing.

9  
10 IT IS SO ORDERED.

11  
12 Dated: December 18, 2012

