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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARGARET WARD, et al.,
Plaintiffs,
v.
THE COUNTY OF MENDOCINO, et al.,
Defendants.

Case No. 17-cv-00911-PJH

**ORDER GRANTING MOTION FOR
VOLUNTARY DISMISSAL WITH
PREJUDICE OF DEFENDANTS
KINDRED AND GOODMAN AND
VACATING HEARING**

Re: Dkt. No. 142

Before the court is plaintiffs' motion to voluntarily dismiss defendants Kindred Healthcare Operating, Inc. ("Kindred") and Kathy Louise Goodman (together the "Kindred Defendants") with prejudice. Dkt. 142. The matter is fully briefed and suitable for decision without oral argument.¹ Accordingly, the hearing set for April 17, 2019 is VACATED. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby rules as follows.

On October 2, 2018, the parties attended a mandatory settlement conference with Judge Beeler. See Dkt. 116. At that settlement conference, plaintiffs reached a settlement agreement with the Kindred Defendants, and on February 22, 2019, this court granted Kindred's motion to determine that settlement was made in good faith under

¹ Although fully briefed, none of the parties provided chambers with a paper copy of the documents it electronically filed, in violation of Civil Local Rule 5-1(e)(7) and this court's standing orders. The parties are reminded that "Chambers copies of each electronically-filed document must . . . be delivered to the Clerk's Office by noon the day following its filing." Judge Hamilton's Civil Pretrial Instructions ¶ A.6.

1 California Code of Civil Procedure § 877.6. Dkt. 139. Plaintiffs now move the court to
2 dismiss the Kindred Defendants from this action with prejudice.

3 Kindred supports the motion. Dkt. 142-1 ¶ 2. Each additional defendant (other
4 than Goodman, whom the parties are unable to reach) has filed a statement of non-
5 opposition to the motion. Dkts. 143, 147.

6 Federal Rule of Civil Procedure 41(a)(2) provides that an action may be dismissed
7 at the plaintiff's request by court order "on terms that the court considers proper. . . .
8 Unless the order states otherwise, a dismissal under this paragraph (2) is without
9 prejudice." Fed. R. Civ. P. 41(a)(2). "A district court should grant a motion for voluntary
10 dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain
11 legal prejudice as a result." Smith v. Lenches, 263 F.3d 972, 975 (9th Cir. 2001).

12 Given that plaintiffs have settled their claims against the Kindred Defendants, the
13 court has determined that settlement was made in good faith under California law, and no
14 defendant has opposed this motion or attempted to show that it will suffer any legal
15 prejudice from the proposed dismissals, the court finds that plaintiffs' request to dismiss
16 the Kindred Defendants is proper.

17 Accordingly, Kindred Healthcare Operating, Inc. and Kathy Louise Goodman are
18 DISMISSED WITH PREJUDICE. The hearing set for April 17, 2019 is VACATED.

19 **IT IS SO ORDERED.**

20 Dated: April 3, 2019



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22 PHYLLIS J. HAMILTON
23 United States District Judge
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