

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28E-FILED on 9/4/12

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHRISTOPHER REIGNIERD and SAEKO
REIGNIERD,

Plaintiffs,

v.

BANK OF AMERICA, N.A., a national
banking association; and DOES 1-200,
inclusive,

Defendants.

No. 11-cv-05750-RMW

ORDER OVERRULING DEFENDANT'S
OBJECTION TO PLAINTIFF'S REQUEST
FOR DISMISSAL WITHOUT PREJUDICE

[Re Docket Nos. 29, 30]

On August 23, 2012, plaintiffs filed a "request for dismissal without prejudice" of the First Amended Complaint ("FAC"). Defendant objected, arguing that the court should adopt its tentative order dismissing the case with prejudice. However, defendant provided no authority showing that a court may dismiss an action with prejudice after the filing of a notice of dismissal under Fed. R. Civ. P. 41(a), which allows a plaintiff to dismiss an action *without a court order* at any time before a defendant has filed an answer or a motion for summary judgment. Accordingly, defendant's objection is overruled. The court construes Dkt. No. 29 as a notice of dismissal under Fed. R. Civ. P. 41(a). The FAC is thus dismissed without prejudice.

1 DATED: 9/4/12



RONALD M. WHYTE
United States District Judge

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28