

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAYMOND ALVANDI, individually and) Civil No. 12cv1376 L (BLM)
on behalf of other persons similarly)
situated,)
Plaintiffs,)
v.)
NIKOO MANUFACTURING, INC.,)
Defendant.)
**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

On September 30, 2013, the Court ordered that if plaintiff intended to proceed with this litigation, he was required to file a request for entry of default on or before October 4, 2013. Plaintiff was also warned that failure to timely file such a request will result in dismissal of this action. No request was made.

On October 5, 2013, plaintiff filed a notice of voluntary dismissal without prejudice; however, Federal Rule of Civil Procedure 41(a)(1)(A)(i) does not permit dismissal without a court order if an answer has been filed. In this case, an Answer was filed on July 30, 2012. [doc. #8] Accordingly, plaintiff may not dismiss this action except by a request directed to the court. Plaintiff has not moved for dismissal under Rule 41(a)(2) and his notice of voluntary dismissal is void. Nevertheless, the Court will dismiss this action without prejudice based on plaintiff's failure to timely request default in accordance with the September 30, 2013 Order.

Based on the foregoing, **IT IS ORDERED** dismissing this action without prejudice. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

DATED: December 3, 2013

M. James Lorenz
M. James Lorenz
United States District Court Judge

COPY TO:

HON. BARBARA L. MAJOR
UNITED STATES MAGISTRATE JUDGE

ALL PARTIES/COUNSEL