

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer**

Civil Case No. 09-cv-00563-PAB-BNB

JOHN MCCULLEY and
CARMEN MCCULLEY,

Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF JEFFERSON,
COLORADO and
KAYCEE STARKEY,

Defendants.

ORDER

This matter is before the Court on plaintiffs' Notice of Voluntary Dismissal Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) in which plaintiffs seek to voluntarily dismiss without prejudice from this case defendant Board of County Commissioners of the County of Jefferson, Colorado. This defendant has not filed an answer or motion for summary judgment. Therefore, the notice is accepted and it is

ORDERED that pursuant to Fed. R. Civ. P. 41(a), defendant Board of County Commissioners of the County of Jefferson, Colorado and all claims to the extent that they are asserted against the Board, are DISMISSED from this case, with each party to bear its own attorneys' fees and costs. It is further

ORDERED that Jefferson County Board of County Commissioners' Combined Motion and Brief to Dismiss [Docket No. 9] and Defendant Board of County Commissioners' Motion to Stay Discovery Based on Governmental Immunity [Docket No. 10] are DENIED as moot.

DATED this 13th day of April, 2009, at Denver, Colorado.

BY THE COURT:

s/Philip A. Brimmer

PHILIP A. BRIMMER
United States District Judge