

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02340-BNB

JERRY L. MASKE,

Plaintiff,

v.

CITY AND COUNTY OF DENVER, and
JANIS FERRARA,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 21 2009

GREGORY C. LANGHAM
CLERK

ORDER DISMISSING CASE

Plaintiff Jerry L. Maske currently resides in Aurora, Colorado. Mr. Maske, acting *pro se*, initiated this action by filing a Complaint. On October 5, 2009, Mr. Maske filed a Letter with the Court requesting that the instant action be dismissed. The Court must construe the Letter liberally because Mr. Maske is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

Rule 41(a)(1)(A) provides that “the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment” No answer has been filed by Defendants in this action. Further, a voluntary dismissal under Rule 41(a)(1)(A)(i) is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is necessary. *See* J. Moore, *Moore’s Federal Practice* ¶ 41.02(2) (2d ed. 1995); *Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968).

The Court, therefore, construes the Letter as a Notice of Dismissal filed pursuant to Rule 41(a)(1)(A)(i). The file will be closed as of October 5, 2009, the date the Notice was filed with the Court. **See *Hyde Constr. Co.***, 388 F.2d at 507. Accordingly, it is

ORDERED that the Letter is construed as a Notice of Dismissal filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and is effective as of October 5, 2009, the date Mr. Maske filed the Notice in this action.

DATED at Denver, Colorado, this 21 day of Oct., 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-02340-BNB

Jerry Maske
2705 Danube Way, Unit 101
Aurora, CO 80013

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 10/21/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk