

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00956-KLM

JAMES ECKART, and
MARGARET COVEN ECKART,

Plaintiffs,

v.

BANK OF AMERICA, N.A.,
NATIONSTAR MORTGAGE LLC, and
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiffs' **Motion to Dismiss Without Prejudice Defendants Nationstar Mortgage, LLC and the United States Department of Housing and Urban Development** [#27] (the "Motion").

IT IS HEREBY **ORDERED** that the Motion [#27] is **DENIED without prejudice**. The Motion is **denied without prejudice** as to the dismissal of Defendant United States Department of Housing and Urban Development. Fed. R. Civ. P. 41(a)(1)(A)(i) permits the voluntary dismissal of a defendant by the plaintiffs before that defendant has filed an answer or a motion for summary judgment, without entry of a Court order. Defendant United States Department of Housing and Urban Development has not yet filed an answer or a motion for summary judgment. Thus, Fed. R. Civ. P. 41(a)(1)(A) permits the relief sought by Plaintiffs without the necessity of a Court order, so long as Plaintiff files a "notice of dismissal" or a "stipulation of dismissal signed by all parties." Here, Plaintiff filed a motion. Because this case has been assigned to Magistrate Judge Mix pursuant to the Pilot Project to Implement the Direct Assignment of Civil Cases to Full Time Magistrate Judges, the parties must file the Consent Form indicating either the unanimous consent of the parties or that consent has been declined before any dismissal requiring a Court order may be entered. See [#5].

The Motion is also **denied without prejudice** as to the dismissal of Defendant Nationstar Mortgage, LLC, which has already filed an Answer [#12] in this lawsuit. Plaintiffs may seek dismissal of this Defendant under Fed. R. Civ. P. 41(a)(1)(A)(ii), which allows for

voluntary dismissal without a Court order by filing a stipulation of dismissal signed by all parties who have appeared.

Dated: September 10, 2014