

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JONATHAN-ALLEN LITTLE,

Plaintiff,

v.

TROTT AND TROTT, P.C., *et al.*,

Defendants.

Civil Action No. 09-1882 (CKK)

MEMORANDUM OPINION

(December 14, 2009)

Plaintiff, Jonathan-Allen Little, representing himself *pro se*, filed the above-captioned action on September 30, 2009. He named as Defendants Trott and Trott, P.C., Kimberly D. Jones, Cenlar, F.S.B., (collectively, “non-Federal Defendants”) and the Federal Home Loan Mortgage Corporation (together with the non-Federal Defendants, “Defendants”). On November 13, 2006, the non-Federal Defendants filed a Motion to Dismiss the above-captioned case, as against them, pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3). *See* Docket No. [3]. As Plaintiff is representing himself *pro se*, the Court advised Plaintiff pursuant to *Fox v. Strickland*, 837 F.2d 507 (D.C. Cir. 1988), that he was required to respond to the non-Federal Defendants’ Motion to Dismiss by no later than December 11, 2009, or the Court would treat the motion as conceded and dismiss Plaintiff’s Complaint as against those Defendants. *See* 11/16/09 Order, Docket No. [4].


In response, Plaintiff filed a motion to dismiss on December 9, 2009. *See* Docket No. [6]. Plaintiff requests the Court “dismiss[] this case without prejudice and all defendants thereto.” *Id.* Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), so long as an opposing party has not yet

served either an answer or motion for summary judgment in response to the complaint, a plaintiff may voluntarily dismiss his case without a court order by filing a notice of dismissal. Fed. R. Civ. P. 41(a)(1)(A)(i). In this case, although the non-Federal Defendants have filed a motion to dismiss, none of the Defendants have filed either an answer or a motion for summary judgment.

Accordingly, although Plaintiff's pleading purports to request voluntary dismissal pursuant to Federal Rule of Civil Procedure 9(b),¹ it is readily apparent that Plaintiff in fact intended to file a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Cognizant of Plaintiff's *pro se* status and the Court's obligation to liberally construe *pro se* pleadings, the Court therefore deems Plaintiff's *pro se* filing as a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i). *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) ("A document filed *pro se* is 'to be liberally construed.'") (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). As such, Plaintiff's complaint is automatically DISMISSED WITHOUT PREJUDICE without the need for a court order. *See* Fed. R. Civ. P. 41(a)(1)(A)(i).

Finally, given that this case is dismissed in its entirety at Plaintiff's request, the Court shall DENY the non-Federal Defendants' [3] Motion to Dismiss as MOOT. An appropriate Order accompanies this Memorandum Opinion.

Date: December 14, 2009


COLLEEN KOLLAR-KOTELLY
United States District Judge

¹ Federal Rule of Civil Procedure 9(b) governs pleading requirements when a party alleges fraud or mistake and is irrelevant to the issue at hand. *See* Fed. R. Civ. P. 9(b).