

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

SHAUNPEN ZHOU,

Plaintiff,

vs.

INTERNATIONAL BUSINESS
MACHINES CORPORATION and
ARTECH INFORMATION SYSTEMS,
LLC,

Defendants.

No. 15-CV-1027-LRR

ORDER

The matter before the court is Plaintiff Shaunpen Zhou's pro se "Response to Defendant Artech's Motion for Summary Judgment" ("Motion") (docket no. 118), which he filed on January 20, 2017. In the Motion, Zhou seeks to "voluntarily withdraw[] the claims against Defendant Artech [Information Systems, LLC ("Artech")] set forth in Cou[n]ts 2, 4, 5, 8, and 10 of his Amended Complaint." Motion at 3; *see also* Amended Complaint (docket no. 52). Though it is not styled as such, the court shall treat the Motion as arising under Federal Rule of Civil Procedure 41(a)(2). Rule 41(a)(2) requires a court order to dismiss an action by plaintiff's request unless the notice of dismissal precedes an answer or motion for summary judgment or is accompanied by a stipulation of dismissal signed by all parties, neither of which applies here. *See* Fed. R. Civ. P. 41(a); *see also* *Stone v. Harry*, 364 F.3d 912, 915 (8th Cir. 2004) (noting that, where a party appears pro se, his or her pleadings should be "construe[d] . . . in a way that permits the layperson's claim to be considered within the proper legal framework"). Also on January 20, 2017, Artech filed a "Reply in Support of its Motion for Summary Judgment" ("Reply") (docket no. 119). In the Reply, Artech notes that Counts 2, 4, 5, 8 and 10 of the Amended

Complaint are the only claims in which Artech is named, and Artech therefore does not resist dismissal of those claims against it. Reply at 2.

For the reasons stated in the Motion, and because Artech has effectively consented to the Motion, the Motion is **GRANTED**. Counts 2, 4, 5, 8 and 10 are **DISMISSED WITH PREJUDICE** as to Defendant Artech. Because no claims against Artech remain pending, Artech is **DISMISSED** from the instant action and Artech's Motion for Summary Judgment (docket no. 99) is **DENIED AS MOOT**.

IT IS SO ORDERED.

DATED this 23rd day of January, 2017.

A handwritten signature in black ink, appearing to be "A. J. ...", is written over a horizontal line.