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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CHRISTOPHER A. JONES,

Plaintiff,

v.

BRUCE BANNISTER, *et al.*,

Defendants.

Case No. 3-16-cv-00399-MMD-VPC

ORDER

Before the Court is Plaintiff Christopher A. Jones's Motion for Voluntary Dismissal of Two Defendants per Fed. R. Civ. P. 41(a)(2) ("Motion"). (ECF No. 80.) Defendants filed a notice of non-opposition to Plaintiff's Motion. (ECF No. 87.) For the following reasons, the Court grants Plaintiff's Motion.

"Federal Rule of Civil Procedure 41(a)(2) allows a plaintiff, pursuant to an order of the court, and subject to any terms and conditions the court deems proper, to dismiss an action without prejudice at any time." *Westlands Water Dist. v. United States*, 100 F.3d 94, 96 (9th Cir.1996) (citing Fed. R. Civ. P. 41(a)(2); *Stevedoring Servs. of Am. v. Armilla Int'l B.V.*, 889 F.2d 919, 921 (9th Cir.1989)). "The purpose of the rule is to permit a plaintiff to dismiss an action without prejudice so long as the defendant will not be prejudiced or unfairly affected by dismissal." *Stevedoring Servs.*, 889 F.2d at 921 (citations omitted). "A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result." *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001). "[L]egal prejudice' means 'prejudice to some

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1 legal interest, some legal claim, some legal argument.” *Id.* at 976 (quoting *Westlands*, 100
2 F.3d at 97).

3 Plaintiff moves to dismiss Defendants Jonathan Perry and Candis Brockway from
4 the first and third claims in his Second Amended Complaint (“SAC”) with prejudice under
5 Fed. R. Civ. P. 41(a)(2).¹ (ECF No. 80 at 1.) Defendants do not oppose Plaintiff’s Motion.
6 (ECF No. 87 at 1.)

7 It is therefore ordered that Plaintiff’s Motion (ECF No. 80) is granted.

8 DATED THIS 18th day of May 2018.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

¹Plaintiff filed his SAC on March 13, 2018 (ECF No. 64 at 1), and the Court has not yet screened it.