

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MICHAEL R. MYERS,

11 Plaintiff,

12 v.

13 BARACK H. OBAMA, President of the
United States, and BOEING COMPANY,

14 Defendants.
15

CASE NO. C12-179 MJP

ORDER ON PLAINTIFF'S MOTION
TO DISMISS WITHOUT
PREJUDICE

16 This matter comes before the Court on Plaintiff's motion to dismiss without prejudice.
17 (Dkt. No. 50.)

18 Under Rule 41(a)(1), a plaintiff has an absolute right to voluntarily dismiss his action
19 prior to service by the defendant of an answer or a motion for summary judgment. Fed. R. Civ.
20 P. 41(a)(1); see also Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995). Even if the
21 defendant has filed a motion to dismiss, a plaintiff may terminate his action voluntarily by filing
22 a notice of dismissal. Id. Here, Plaintiff Michael Myers ("Myers") has filed a motion for
23 summary judgment, but Defendants have only filed motions to dismiss. Therefore, Myers has a
24

1 right to voluntarily dismiss his action without prejudice. Even though the Court finds it difficult
2 to understand Myers's reasons for dismissal and despite the valid issues raised by Defendants'
3 briefing, Myers's right to dismiss is absolute. As such, the Court GRANTS Plaintiff's motion to
4 dismiss without prejudice. Defendants' pending motions to dismiss (Dkt. No., 34 and 35) and all
5 other pending motions are therefore moot.

6 The clerk is ordered to provide copies of this order to all counsel.

7 Dated this 30th day of July, 2012.

8 

9
10 Marsha J. Pechman
United States District Judge