

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gemma Amboy v. Exodus Recovery, Inc., et al.

Amboy · No. 1:24-cv-00957-KES-EPG · Decided April 30, 2025

SUMMARY

The United States District Court for the Eastern District of California ordered the termination and closure of the action after Plaintiff Gemma Amboy filed a notice of voluntary dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i). The court directed the clerk to vacate pending dates and deadlines, terminate a motion to withdraw as attorney as no longer pending, and close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 30, 2025
DOCKET	1:24-cv-00957-KES-EPG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a notice of voluntary dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i) before any defendant served an answer or motion for summary judgment.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- [civil procedure](#) [motions to dismiss](#) [remedies](#)

PRACTICE AREAS

- [civil procedure](#) [employment litigation](#)

QUESTIONS PRESENTED

- Whether Plaintiff's notice of voluntary dismissal without prejudice was effective under Federal Rule of Civil Procedure 41(a)(1)(A)(i) when no defendant had served an answer or motion for summary judgment.
- What disposition and administrative actions should follow the effective voluntary dismissal.

HOLDINGS

- 1. A plaintiff may voluntarily dismiss an action without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i) when no defendant has served an answer or motion for summary judgment; Plaintiff's notice therefore terminated the action.
- 2. The action was dismissed without prejudice, pending dates and deadlines were vacated, the motion to withdraw as attorney was terminated as no longer pending, and the case was closed.

KEY QUOTATIONS

“Accordingly, in light of the voluntary dismissal, this action has been terminated, Fed. R. Civ. P. 41(a)(1)(A)(i), and has been dismissed without prejudice.” (at 1)

FACTUAL BACKGROUND

The plaintiff filed a notice of voluntary dismissal on April 29, 2025. At that time, no defendant had served an answer or a motion for summary judgment. The court therefore treated the dismissal as effective under Federal Rule of Civil Procedure 41(a)(1)(A)(i).

PROCEDURAL HISTORY

Gemma Amboy commenced the action against Exodus Recovery, Inc. and other defendants. Before any defendant served an answer or motion for summary judgment, Plaintiff filed a notice of voluntary dismissal without prejudice. The court recognized the dismissal, vacated pending dates and deadlines, terminated a pending motion to withdraw as attorney, and directed the Clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 GEMMA AMBOY, Case No. 1:24-cv-00957-KES-EPG 12 Plaintiff, 13 v. ORDER RE: NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE 14 EXODUS RECOVERY, INC., et al., (ECF No. 13) 15 Defendants. 16 17 18 On April 29, 2025, Plaintiff filed a notice of voluntary dismissal without prejudice under 19 Federal Rule of Civil Procedure 41(a)(1)(A)(i) as no Defendant has yet served either an answer or 20 motion for summary judgment. (ECF No. 13). 21 Accordingly, in light of the voluntary dismissal, this action has been terminated, Fed. R. 22 Civ. P. 41(a)(1)(A)(i), and has been dismissed without prejudice. See Wilson v. City of San Jose, 23 111 F.3d 688, 692 (9th Cir. 1997). 24 \\\ 25 \\\ 26 \\\ 27 \\\ 28 \\\ 1 The Clerk of Court

is respectfully directed to vacate any and all dates or deadlines, 2 | terminate as no longer pending the motion to withdraw as attorney (ECF No. 10), and close the 3 | case.

4; IT IS SO ORDERED. Dated: _ April 30, 2025 [Jee ey ☐☐ 7 UNITED STATES MAGISTRATE JUDGE 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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