

1 1186, 1191 (9th Cir. 1989); Eitel v. McCool, 782 F.2d 1470, 1472-73 (9th Cir. 1986). Once the
2 stipulation between the parties who have appeared is properly filed or made in open court, no order
3 of the court is necessary to effectuate dismissal. Fed. R. Civ. P. 41(a)(1)(ii). Eitel, 782 F.2d at 1473
4 n.4.

5 Regardless of whether Rule 41(a)(1)(i) or Rule 41(a)(1)(ii) applies, given that Plaintiff has
6 filed a stipulation for dismissal without prejudice as to all parties sufficient under Rule 41(a)(1)(ii),
7 this case has terminated. See Fed. R. Civ. P. 41(a)(1)(ii); In re Wolf, 842 F.2d 464, 466 (D.C. Cir.
8 1988); Gardiner v. A.H. Robins Co., 747 F.2d 1180, 1189 (8th Cir. 1984); see also Gambale v.
9 Deutsche Bank AG, 377 F.3d 133, 139 (2d Cir. 2004); Commercial Space Mgmt. v. Boeing., 193
10 F.3d 1074, 1077 (9th Cir. 1999); cf. Wilson, 111 F.3d 688, 692 (9th Cir. 1997).

11 Therefore, IT IS HEREBY ORDERED that:

- 12 1. This matter is DISMISSED without prejudice.
- 13 2. An Initial Scheduling Conference set for July 12, 2006 at 9:00 a.m. (Doc. 7) is
14 VACATED.

15
16 IT IS SO ORDERED.

17 **Dated:** April 28, 2006
18 0m8i78

17 /s/ Anthony W. Ishii
18 UNITED STATES DISTRICT JUDGE