

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

GEORGE AARON, JR.,

Plaintiff,

v.

S. CANO, et al.,

Defendants.

CASE NO. 1:08-cv-00664-AWI-GBC (PC)

ORDER CLOSING CASE IN LIGHT OF
STIPULATION FOR DISMISSAL WITH
PREJUDICE

(Doc. 48)

On September 9, 2010, the parties filed a stipulation of voluntary dismissal with prejudice of this matter pursuant to Federal Rule of Civil Procedure 41(a)(1)(A).

Rule 41(a)(1)(A) provides that, “the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.” Rule 41(a)(1)(A)(ii) thus allows the parties to dismiss an action voluntarily, after service of an answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared. *Carter v. Beverly Hills Sav. & Loan Asso.*, 884 F.2d 1186, 1191 (9th Cir. 1989). Once the stipulation between the parties who have appeared is properly filed, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro. 41(a)(1)(ii). “[C]ase law concerning stipulated dismissals under Rule 41(a)(1)(ii) is clear that the entry of such a stipulation of

1 dismissal is effective automatically and does not require judicial approval.” *In re Wolf*, 842 F.2d
2 464, 466 (D.C. Cir. 1989) (quoting *Gardiner v. A.H. Robins Co., Inc.*, 747 F.2d 1180, 1189 (8th
3 Cir. 1984)); *see also Gambale v. Deutsche Bank AG*, 377 F.3d 133, 139 (2d Cir. 2004);
4 *Commercial Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999); *Wilson v. City*
5 *of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). “The plaintiff may dismiss either some or all of
6 the defendants-or some or all of his claims-through a Rule 41(a)(1) notice.” *Concha v. London*,
7 62 F.3d 1493, 1506 (9th Cir. 1995). The dismissal “automatically terminates the action as to the
8 defendants who are the subjects of the notice.” *Wilson*, 111 F.3d at 692.

9 Because the parties have filed a stipulation for dismissal of this case with prejudice under
10 Rule 41(a)(1)(A)(ii) that is signed by all parties who have made an appearance, this case has
11 terminated. *See Fed. R. Civ. Pro. 41(a)(1)(A)(ii)*; *In re Wolf*, 842 F.2d at 466; *Gardiner*, 747
12 F.2d at 1189; *see also Gambale*, 377 F.3d at 139; *Commercial Space Mgmt.*, 193 F.3d at 1077;
13 *Wilson*, 111 F.3d at 692.

14 Therefore, IT IS HEREBY ORDERED that the Clerk is ordered to close this case in light
15 of the filed and properly signed Rule 41(a)(1)(A)(ii) stipulation of dismissal with prejudice.

16 IT IS SO ORDERED.

17 Dated: August 23, 2011

18 
19 _____
20 CHIEF UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26
27
28