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4 **UNITED STATES DISTRICT COURT**  
5 **EASTERN DISTRICT OF CALIFORNIA**  
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7 **STEPHEN A. CARROLL ,**

8  
9 **Plaintiff,**

10 **v.**

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12 **CITY OF MODESTO, and DOES 1 to 5,**

13  
14 **Defendants.**

**CASE NO. 1:15-CV-1691 AWI SKO**

**ORDER DENYING DEFENDANT'S  
MOTION TO DISMISS AS MOOT AND  
CLOSING CASE IN LIGHT OF NOTICE  
OF VOLUNTARY DISMISSAL  
WITHOUT PREJUDICE**

(Doc. Nos. 4, 23)

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16 On November 25, 2015, Defendant City of Modesto (“Modesto”) filed a motion to dismiss  
17 Plaintiff Stephen Carroll’s (“Carroll”) complaint for failure to state a claim upon which relief can  
18 be granted under Federal Rule of Civil Procedure 12(B)(6). See Doc. No. 4. On March 31, 2017,  
19 Carroll filed a notice of voluntary dismissal without prejudice. See Doc. No. 23.

20 Rule 41(a)(1), in relevant part, reads:

21 (A) . . . the plaintiff may dismiss an action without a court order by filing: (i) a  
22 notice of dismissal before the opposing party serves either an answer or a motion  
23 for summary judgment; or (ii) a stipulation of dismissal signed by all parties who  
24 have appeared. . . . (B) Unless the notice or stipulation states otherwise, the  
dismissal is without prejudice.

25 Dismissals under Rule 41(a)(1)(A), when properly filed, are effective immediately and do not  
26 require a court order/court approval. See Fed. R. Civ. P. 41(a)(1); Yesh Music v. Lakewood  
27 Church, 727 F.3d 356, 362 (5th Cir. 2013); Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d  
28 1074, 1077 (9th Cir. 1999); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997).

1 Here, no answers to Crowell's complaint and no motions for summary judgment have been  
2 filed in this case, and it appears that no such documents have been served. Because Carroll has  
3 exercised his right to voluntarily dismiss his complaint without prejudice under Rule 41(a)(1), this  
4 case has terminated automatically. See Fed. R. Civ. P. 41(a)(1)(A)(i); Wilson, 111 F.3d at 692.  
5 Further, in light of Carroll's voluntary dismissal, Modesto's motion to dismiss is now moot and  
6 will be denied as such.

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8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The Clerk shall CLOSE this case in light of Plaintiff's Rule 41(a)(1) voluntary dismissal  
10 without prejudice; and  
11 2. Defendant's motion to dismiss (Doc. No. 4) is DENIED as moot.

12 IT IS SO ORDERED.

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14 Dated: March 31, 2017

  
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15 SENIOR DISTRICT JUDGE  
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