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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Petitioner,

v.

JAMES W. INGRAM,

Respondent.

Case No. 1:16-cv-01663-AWI-SAB

ORDER DIRECTING CLERK OF COURT  
TO CLOSE CASE AND ADJUST DOCKET  
TO REFLECT VOLUNTARY DISMISSAL

ORDER VACATING MAY 2, 2018  
HEARING

(ECF No. 40)

This action was filed on November 2, 2016. (ECF No. 1.) On April 24, 2018, Petitioner filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

“[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can’t complain, and the district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193

1 F.3d at 1078. In this action, Respondent has not filed an answer or other responsive pleading.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The Clerk of the Court is directed to close the file in this case and adjust the docket  
4 to reflect voluntary dismissal of this action pursuant to Rule 41(a); and  
5 2. The May 2, 2018 hearing set before Magistrate Judge Sheila K. Oberto is vacated.

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7 IT IS SO ORDERED.

8 Dated: April 24, 2018

  
UNITED STATES MAGISTRATE JUDGE

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