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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

IN RE FOR THE MUTUAL ASSISTANCE  
OF HARJU COUNTY COURT, ESTONIA,

Case No. 1:16-mc-00039-DAD-SAB

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

(ECF No. 7)

On May 4, 2016, an application for an order appointing a commissioner and compelling discovery was filed by the United States in the Sacramento Division of the Eastern District of California. (ECF No. 1.) On June 29, 2016, the matter was transferred to the Fresno Division of the Eastern District of California. Local Rule 302(c)(2). On July 1, 2016, the Court ordered that pursuant to 28 U.S.C. § 1782, Assistant United States Attorney Victoria L. Boesch was appointed as commissioner and was authorized to issue subpoenas reasonably necessary to compel Thomas Emanuel Pacheco to provide testimony and information for use in a judicial proceeding in the Harju County Court, Estonia. On June 26, 2017, the United States filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure dismissing this action without prejudice. (ECF No. 7.)

“[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)

1 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has  
2 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet  
3 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th  
4 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,  
5 the parties are left as though no action had been brought, the defendant can’t complain, and the  
6 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193  
7 F.3d at 1078.

8           Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this  
9 case and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

10 IT IS SO ORDERED.

11 Dated: June 27, 2017

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14 UNITED STATES MAGISTRATE JUDGE