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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

9 JOSE ACOSTA,

10 Plaintiff,

11 v.

12 ROGER FITZGERALD, et al.,

13 Defendants.

Case No. 1:17-cv-00057-DAD-SAB

ORDER DIRECTING CLERK OF COURT  
TO CLOSE CASE AND ADJUST DOCKET  
TO REFLECT VOLUNTARY DISMISSAL  
PURSUANT TO FED. R. CIV. P.

41(a)(1)(A)(i)

(ECF No. 6)

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15 This action was filed on January 12, 2017. (ECF No. 1.) On February 28, 2017, Plaintiff  
16 filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil  
17 Procedure.

18 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his  
19 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”  
20 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)  
21 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has  
22 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet  
23 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th  
24 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,  
25 the parties are left as though no action had been brought, the defendant can’t complain, and the  
26 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193  
27 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

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1 Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this  
2 case and adjust the docket to reflect voluntary dismissal of this action pursuant to Federal Rule of  
3 Civil Procedure 41(a)(1)(A)(i).

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5 IT IS SO ORDERED.

6 Dated: **March 1, 2017**



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UNITED STATES MAGISTRATE JUDGE

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