

1 however, the plaintiff may no longer voluntarily dismiss under Rule 41(a)(1), but must file a
2 motion for voluntary dismissal under Rule 41(a)(2).” Wilson v. City of San Jose, 111 F.3d 688,
3 692 (9th Cir. 1999). Pursuant to Rule 41(a)(2), “an action may be dismissed at the plaintiff’s
4 request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2).
5 “A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a
6 defendant can show that it will suffer some plain legal prejudice as a result.” Smith v. Lenches,
7 263 F.3d 972, 975 (9th Cir. 2001).

8 Here, Defendant served an answer to the complaint, and thus dismissal under Rule
9 41(a)(1)(A) is not available. Nonetheless, Defendant has not opposed Plaintiff’s request and has
10 consented to voluntary dismissal. Based on Defendant’s non-opposition and consent, the Court
11 finds no reason to deny Plaintiff’s request for dismissal under Rule 41(a)(2), and this action shall
12 be closed.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff’s motion for voluntary dismissal under Rule 41(a)(2) is GRANTED;
- 15 2. All pending motions, if any, are TERMINATED; and
- 16 3. The Clerk of the Court is directed to CLOSE this case.

17 This terminates the action in its entirety.

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19 IT IS SO ORDERED.

20 Dated: August 4, 2017

21 /s/ Lawrence J. O’Neill
22 UNITED STATES CHIEF DISTRICT JUDGE
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