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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUFUS HERNANDEZ,
Plaintiff,
v.
MARTIN, et al.,
Defendants.

1:17-cv-00429-JLT (PC)
ORDER DISMISSING ACTION PER
STIPULATION FOR VOLUNTARY
DISMISSAL, FED. R. CIV. P. 41
(Docs. 33, 35)

On June 14, 2018, Plaintiff filed a notice of his desire to voluntarily dismiss this action. (Doc. 33.) On June 18, 2018, Defendants filed a statement indicating that they had no objection to Plaintiff’s voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) and stipulate thereto. (Doc. 35.) Rule 41(a)(1)(A), in relevant part, reads:

the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; (ii) a stipulated dismissal signed by all parties who have appeared.

Rule 41(a)(1)(A)(ii) thus allows the parties to dismiss an action voluntarily, after service of an answer, by filing written stipulation to dismiss signed by all of the parties who have appeared. *Carter v. Beverly Hills Sav. & Loan Asso.*, 884 F.2d 1186, 1191 (9th Cir. 1989); *Eitel v. McCool*, 782 F.2d 1470, 1472-73 (9th Cir. 1986). Once the stipulation between the parties who have appeared is properly filed or made in open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro. 41(a)(1)(ii); *Eitel*, 782 F.2d at 1473 n.4.

“Caselaw concerning stipulated dismissals under Rule 41(a)(1)(ii) is clear that the entry of

1 such a stipulation of dismissal is effective automatically and does not require judicial approval.”
2 *In re Wolf*, 842 F.2d 464, 466 (D.C. Cir. 1989); *Gardiner v. A.H. Robins Co.*, 747 F.2d 1180,
3 1189 (8th Cir. 1984); *see also Gambale v. Deutsche Bank AG*, 377 F.3d 133, 139 (2d Cir. 2004);
4 *Commercial Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999) *cf. Wilson v.*
5 *City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997) (addressing Rule 41(a)(1) dismissals).
6 Because all parties who have made an appearance have stipulated to dismissal of this case under
7 Rule 41(a)(1)(A)(ii), this case has terminated. *See Fed. R. Civ. Pro.* 41(a)(1)(A)(ii); *In re Wolf*,
8 842 F.2d at 466; *Gardiner*, 747 F.2d at 1189; *see also Gambale*, 377 F.3d at 139; *Commercial*
9 *Space Mgmt*, 193 F.3d at 1077; *cf. Wilson*, 111 F.3d at 692.

10 Therefore, the Clerk is ordered to close this case in light of the parties’ stipulation under
11 Rule 41.

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13 IT IS SO ORDERED.

14 Dated: June 20, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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