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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 JOSE ACOSTA,

12 Plaintiff,

13 v.

14 MARGARET RILEY dba SUNNYSIDE
15 DELICATESSEN, et al.,

16 Defendants.

Case No. 1:17-cv-00431-LJO-SAB

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

(ECF No. 11)

17 This action was filed on March 23, 2017. (ECF No. 1.) On May 24, 2017, Plaintiff filed
18 a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.
19 (ECF No. 11.) Plaintiff dismisses this action in its entirety with prejudice.

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

1 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

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

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5 IT IS SO ORDERED.

6 Dated: May 25, 2017


UNITED STATES MAGISTRATE JUDGE

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