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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 UNITED STATES OF AMERICA,

12 Petitioner,

13 v.

14 RICHARD BERNAL,

15 Respondent.  
16

1:17-cv-00522-LJO-SAB

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

(ECF NO. 12)

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18 On April 12, 2017, Petitioner United States of America filed a petition to enforce an Internal  
19 Revenue Service summons. (ECF No. 1.) Respondent did not appear for an order to show cause  
20 hearing and on July 18, 2017, an order enforcing the summons was issued. (ECF Nos. 7, 9.) On April  
21 27, 2018, Petitioner filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules  
22 of Civil Procedure.

23 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action  
24 prior to service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space  
25 Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San  
26 Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a plaintiff to  
27 dismiss without a court order any defendant who has yet to serve an answer or motion for summary  
28 judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993). “[A] dismissal under Rule 41(a)(1) is

1 effective on filing, no court order is required, the parties are left as though no action had been brought,  
2 the defendant can't complain, and the district court lacks jurisdiction to do anything about it.”  
3 Commercial Space Mgmt. Co., Inc., 193 F.3d at 1078.

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

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7 IT IS SO ORDERED.

8 Dated: April 30, 2018

  
UNITED STATES MAGISTRATE JUDGE

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