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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 JAMES CARPENTER,

12 Plaintiff,

13 v.

14 REX TILLERSON,

15 Defendant.

Case No. 1:17-cv-00637-DAD-SAB

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

(ECF No. 9)

16 This action was filed on May 5, 2017. (ECF No. 1.) On August 14, 2017, Plaintiff filed  
17 a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.  
18 (ECF No. 9.)

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

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). It  
4 is FURTHER ORDERED that all pending dates and matters in this action are VACATED.

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6 IT IS SO ORDERED.

7 Dated: August 15, 2017

  
UNITED STATES MAGISTRATE JUDGE

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