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7 **UNITED STATES DISTRICT COURT**

8 EASTERN DISTRICT OF CALIFORNIA

9 CHOON RHEY,

10 Plaintiff,

11 v.

12 INFEOMA OGBUEHI, et al.,

13 Defendants.  
14

Case No. 1:17-cv-00718-AWI-SAB (PC)

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

(ECF No. 23)

15 Plaintiff Choon Rhey is a state prisoner proceeding pro se in this civil rights matter  
16 pursuant to 42 U.S.C. § 1983.

17 On March 29, 2018, Plaintiff filed a notice of voluntary dismissal pursuant to Rule  
18 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. (ECF No. 23.)

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).

26 “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the  
27 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 complaint has been served, no defendant has appeared, and no  
2 defendant has filed any answer or motion for summary judgment.

3 Accordingly, this action is terminated by operation of law without further order from the  
4 Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to terminate all pending  
5 motions and deadlines, and close this case.

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7 IT IS SO ORDERED.

8 Dated: March 30, 2018

  
UNITED STATES MAGISTRATE JUDGE

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