

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
10

11 JOSE ACOSTA,

12 Plaintiff,

13 v.

14 DENNIS L. SIMONIAN, et al.,

15 Defendants.  
16

Case No. 1:17-cv-00911-DAD-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 July 11, 2017. (ECF No. 1.) On October 9, 2017, Plaintiff filed  
18 a notice of voluntary dismissal with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of  
19 Civil Procedure.

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 with prejudice of this action pursuant to  
4 Rule 41(a).

5  
6 IT IS SO ORDERED.

7 Dated: October 10, 2017

  
UNITED STATES MAGISTRATE JUDGE

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28