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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE ACOSTA,
Plaintiff,
v.
LEE CAZIER, dba JUST THE TIP, et al.,
Defendants.

Case No. 1:17-cv-01082-DAD-SAB
ORDER DIRECTING CLERK OF COURT
TO TERMINATE LEE CAZIER dba JUST
THE TIP FROM THIS ACTION
(ECF No. 6)

This action was filed on August 11, 2017. (ECF No. 1.) On August 28, 2017, Plaintiff filed a notice of voluntary dismissal of only Defendant Lee Cazier dba Just the Tip without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. (ECF No. 6.)

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

1 F.3d at 1078. In this action, Defendant Lee Cazier dba Just the Tip has not filed an answer or
2 motion for summary judgment.

3 Accordingly, the Clerk of the Court is DIRECTED to terminate Defendant Lee Cazier
4 dba Just the Tip from this action.

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6 IT IS SO ORDERED.

7 Dated: August 29, 2017


UNITED STATES MAGISTRATE JUDGE

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