

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

8 **PLANZ PINDER ENTERPRISES, INC.,**

9 **Plaintiff**

10 **v.**

11 **RAMIRO MINERO and EMERITA**  
12 **MINERO,**

13 **Defendants**

**CASE NO. 1:18-CV-0180 AWI JLT**

**ORDER DISCHARGING ORDER TO**  
**SHOW CAUSE AND CLOSING CASE**

(Doc. No. 6)

14  
15 On April 20, 2018, the Magistrate Judge assigned to this matter issued an order to show  
16 cause why sanctions should not be imposed pursuant to Federal Rule of Civil Procedure 11. See  
17 Doc. No. 5.

18 On May 1, 2018, Plaintiff's counsel responded to the order to show cause by filing a  
19 declaration and motion to dismiss under Federal Rule of Civil Procedure 41(a)(2) without  
20 prejudice. See Doc. No. 6. As part of the response, current counsel states that he agrees with the  
21 Magistrate Judge's conclusion that federal question jurisdiction is lacking and that dismissal is  
22 proper.<sup>1</sup>

23 Although the motion is brought under Rule 41(a)(2), the Court finds that Rule 41(a)(1)  
24 applies because no Defendant has appeared or participated in this lawsuit. Federal Rule of Civil  
25 Procedure 41(a)(1), in relevant part, reads:

26 (A) . . . the plaintiff may dismiss an action without a court order by filing: (i) a  
27 notice of dismissal before the opposing party serves either an answer or a motion

28  

---

<sup>1</sup> Counsel Peterson made the declaration. Counsel Gonzalez filed the complaint.

1 for summary judgment; or (ii) a stipulation of dismissal signed by all parties who  
2 have appeared. . . . (B) Unless the notice or stipulation states otherwise, the  
dismissal is without prejudice.

3 Dismissals under Rule 41(a)(1)(A), when properly filed, are effective immediately and do not  
4 require a court order/court approval. See Fed. R. Civ. P. 41(a)(1); Yesh Music v. Lakewood  
5 Church, 727 F.3d 356, 362 (5th Cir. 2013); Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d  
6 1074, 1077 (9th Cir. 1999); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997).

7  
8 Here, as noted above, no answers to Plaintiff's complaint and no motions for summary  
9 judgment have been filed, and it appears that no such documents have been served. Because  
10 Plaintiff has exercised its right to voluntarily dismiss its complaint under Rule 41(a)(1), this case  
11 has terminated automatically. See Fed. R. Civ. P. 41(a)(1)(A)(i); Wilson, 111 F.3d at 692.

12 With respect to the order to show cause, in light of current counsel's admission and request  
13 to dismiss this case, the Court is satisfied that no further action is necessary. The Court trusts that  
14 both of Plaintiff's counsel will exercise the appropriate level of care and scrutiny to ensure that  
15 jurisdiction actually exists before filing suit in federal court again. Therefore, the order to show  
16 cause will be discharged.  
17

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Clerk shall CLOSE this case in light of Plaintiff's Rule 41(a)(1) voluntary dismissal  
20 without prejudice (Doc. No. 6); and  
21 2. The order to show cause is discharged (Doc. No. 5).  
22

23  
24 IT IS SO ORDERED.

25 Dated: May 8, 2018

  
26 SENIOR DISTRICT JUDGE  
27  
28