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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE ACOSTA,
Plaintiff,
v.
ANTHONY JOAQUIN BARRITA
SORIANO, et al.,
Defendants.

Case No. 1:18-cv-00343-DAD-SAB
ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE AND ADJUST DOCKET
TO REFLECT VOLUNTARY DISMISSAL
(ECF No. 16)

This action was filed on March 9, 2018. (ECF No. 1.) On October 23, 2018, Plaintiff filed a notice of voluntary dismissal with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. (ECF No. 16.) The Court notes that Plaintiff’s name is incorrect in the caption and in the attorney signature. Additionally, the magistrate judge’s initials are incorrect in the case number. While the Court identifies these errors, the defendants are correctly identified in the caption, Plaintiff is correctly identified below the attorney’s name and address, and the number of the case itself is correct. In addition, the Court notes the previously filed notice of settlement required dispositive documents to be filed by October 25, 2018. (ECF No. 14.) The Court concludes that the notice of voluntary dismissal of entire action was intended to be filed in this action. Counsel is cautioned to exercise more care in the future.

“[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his

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

10 Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this
11 case and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

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13 IT IS SO ORDERED.

14 Dated: October 24, 2018


UNITED STATES MAGISTRATE JUDGE

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