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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 J.I.,

12 Plaintiff,

13 v.

14 UNITED STATES OF AMERICA, et al.,

15 Defendants.
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Case No. 1:18-cv-00363-LJO-SAB

ORDER DIRECTING CLERK OF COURT
TO TERMINATE DEFENDANTS
UNKNOWN CUSTOMS AND BORDER
PROTECTION OFFICER 1, UNKNOWN
CUSTOMS AND BORDER PROTECTION
OFFICER 2, CUSTOMS AND BORDER
PROTECTION OFFICER JACOB, AND
DOES 1-10 AS PARTIES IN THIS ACTION
PURSUANT TO FED. R. CIV. P. 41(a)(1)

(ECF No. 22)

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19 This action was filed on March 15, 2018. On May 25, 2018, Plaintiff filed a notice of
20 voluntary dismissal without prejudice of Unknown Customs and Border Protection Officer 1,
21 Unknown Customs and Border Protection Officer 2, Customs and Border Protection Officer
22 Jacob, and Does 1-10 pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

23 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his
24 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”
25 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
26 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
27 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet
28 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th

1 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,
2 the parties are left as though no action had been brought, the defendant can’t complain, and the
3 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
4 F.3d at 1078. In this action, no defendant has filed an answer or motion for summary judgment.

5 Accordingly, the Clerk of Court is **HEREBY ORDERED** to terminate Defendants
6 Unknown Customs and Border Protection Officer 1, Unknown Customs and Border Protection
7 Officer 2, Customs and Border Protection Officer Jacob, and Does 1-10 as parties in this action.

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9 IT IS SO ORDERED.

10 Dated: May 29, 2018


UNITED STATES MAGISTRATE JUDGE

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