

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

11 SREAM, INC.,

12 Plaintiff,

13 v.

14 ALAA DIA,

15 Defendant.

Case No. 1:18-cv-00387-AWI-SAB

ORDER RE PLAINTIFF'S WITHDRAWAL
OF THE MOTION FOR DEFAULT
JUDGMENT

ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE AND ADJUST DOCKET
TO REFLECT VOLUNTARY DISMISSAL

(ECF Nos. 10, 14, 15)

16
17
18 On March 21, 2018, Plaintiff filed this action. On May 30, 2018, Plaintiff filed a motion
19 for default judgment. (ECF No. 10.) On June 26, 2018, Plaintiff filed a notice of withdrawal of
20 the motion. (ECF No. 14.) On June 26, 2018, Plaintiff filed a notice of voluntary dismissal
21 without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

22 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his
23 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”
24 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
25 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
26 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet
27 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th
28 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,

1 the parties are left as though no action had been brought, the defendant can't complain, and the
2 district court lacks jurisdiction to do anything about it." Commercial Space Mgmt. Co., Inc., 193
3 F.3d at 1078. In this action, Defendant has not filed an answer or other responsive pleading.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Clerk of Court is DIRECTED to CLOSE the file in this case and adjust the
6 docket to reflect voluntary dismissal of this action pursuant to Rule 41(a); and
- 7 2. All pending matters and dates, including Plaintiff's motion for default judgment
8 and the July 11, 2018 hearing on the motion for default judgment, are
9 VACATED.

10 IT IS SO ORDERED.

11 Dated: June 27, 2018



12 UNITED STATES MAGISTRATE JUDGE