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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY WHITE, et al.,
Plaintiffs,
v.
COUNTY OF STANISLAUS, et al.,
Defendants.

Case No. 1:18-cv-01206-DAD-SAB
ORDER VACATING FINDINGS AND
RECOMMENDATIONS AND DIRECTING
CLERK OF THE COURT TO CLOSE THIS
MATTER PURSUANT TO RULE 41(a)(1)
OF THE FEDERAL RULES OF CIVIL
PROCEDURE
(ECF No. 49, 51)

On April 4, 2019, findings and recommendations issued recommending granting in part and denying in part Defendants County of Stanislaus, Kelley, Trantham, Perez, and Rocha’s motion to dismiss. (ECF No. 49.) On April 5, 2019, Plaintiff’s filed a motion for dismissal without prejudice. (ECF No. 51.)

Under 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

1 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
2 F.3d at 1078. In this action, no defendant has filed an answer or motion for summary judgment.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. All pending dates and matters, including the findings and recommendations
5 issued April 4, 2019 are VACATED; and
- 6 2. The Clerk of the Court is directed to CLOSE the file in this case and adjust the
7 docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

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9 IT IS SO ORDERED.

10 Dated: April 8, 2019


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UNITED STATES MAGISTRATE JUDGE