

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

11 EDWARD T. TAYLOR, III, et al.,

12 Plaintiffs,

13 v.

14 STEPHANIE J. TAYLOR, et al.,

15 Defendants.  
16

Case No. 1:21-cv-00325-NONE-SAB

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

(ECF No. 7)

17 This action was filed on March 4, 2021. (ECF No. 1.) On April 23, 2021, a notice of  
18 voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure was filed.  
19 As the document was filed as a motion to dismiss, a minute order was inadvertently entered  
20 continuing the scheduling conference to December 7, 2021.

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

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. All pending dates are VACATED;
- 5 2. The Clerk of the Court is DIRECTED to assign a district judge to this case for the  
6 purpose of closing the case; and
- 7 3. The Clerk of the Court is DIRECTED to adjust the docket to reflect voluntary  
8 dismissal of this action pursuant to Rule 41(a).

9  
10 IT IS SO ORDERED.

11 Dated: **April 23, 2021**

  
UNITED STATES MAGISTRATE JUDGE