

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Moland v. Bank of America, N.A.

Moland · No. 1:25-cv-00380-JLT-SAB · Decided July 10, 2025

SUMMARY

The United States District Court for the Eastern District of California addresses Plaintiff’s notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1). The court directs the Clerk to adjust the docket to reflect the dismissal without prejudice, vacates pending dates, and terminates pending matters.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 10, 2025
DOCKET	1:25-cv-00380-JLT-SAB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a notice of voluntary dismissal without prejudice after defendant filed a motion to dismiss but before defendant filed an answer or a motion for summary judgment.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation
PARTIES	Carneshia Moland v. Bank of America, N.A.

TOPICS

- [civil procedure](#) [motions to dismiss](#) [pleadings](#) [class actions](#)

PRACTICE AREAS

- [civil procedure](#) [remedies](#)

QUESTIONS PRESENTED

1. Whether plaintiff could voluntarily dismiss the action without a court order after defendant had filed a motion to dismiss but had not filed an answer or a motion for summary judgment.

2. Whether the clerk should adjust the docket to reflect the voluntary dismissal and close the case.

HOLDINGS

1. A plaintiff may voluntarily dismiss an action without a court order under Rule 41(a)(1)(A)(i) when the defendant has not served an answer or a motion for summary judgment; the filing of a motion to dismiss does not prevent the voluntary dismissal.
2. The notice of voluntary dismissal was effective upon filing, and the court directed the clerk to reflect the dismissal, vacate all pending dates, terminate pending matters, and close the case.

KEY QUOTATIONS

“ “[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 district court lacks jurisdiction to do anything about it.” ” (1-2)

FACTUAL BACKGROUND

Carneshia Moland filed an action against Bank of America, N.A., including claims asserted individually and on behalf of unnamed class members. Although the defendant filed a motion to dismiss, it had not filed an answer or a motion for summary judgment. Plaintiff therefore filed a notice of voluntary dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(1).

PROCEDURAL HISTORY

Plaintiff commenced the action on April 1, 2025. Defendant filed a motion to dismiss on June 13, 2025, and the court later allowed plaintiff to file a first amended complaint. Instead, plaintiff filed a notice of voluntary dismissal without prejudice on July 9, 2025. The court directed the clerk to close the case, vacate pending dates, and terminate pending matters.

DISPOSITION

dismissed

CASES CITED

- Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077-1078 (9th Cir. 1999)
- Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)
- Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993)
- Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995)

OPINION

Moland v. Bank of America, N.A.

PER CURIAM.

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UNITED STATES DISTRICT COURT

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8 EASTERN DISTRICT OF CALIFORNIA

9 CARNESHIA MOLAND, Case No. 1:25-cv-00380-JLT-SAB 10 Plaintiff, ORDER
DIRECTING CLERK OF COURT

11 TO CLOSE CASE AND ADJUST DOCKET

v. TO REFLECT VOLUNTARY DISMISSAL

12 PURSUANT TO RULE 41(a) OF THE

BANK OF AMERICA, N.A., FEDERAL RULES OF CIVIL PROCEDURE

13 Defendant. (ECF No. 18) 14 15 Plaintiff commenced this action on April 1, 2025. (ECF No. 1.)

On June 13, 2025, 16 Defendant filed a motion to dismiss. (ECF No. 13.) On June 30, 2025, the

Court entered the 17 parties' stipulation to allow Plaintiff to file a first amended complaint

pursuant to Rule 15(a) no 18 later than July 11, 2025. (ECF Nos. 16, 17.) On July 9, 2025, Plaintiff

instead filed a notice of 19 voluntary dismissal without prejudice as to Plaintiff individually and

any unnamed member of 20 the alleged class. (ECF No. 18.) 21 Under Rule 41(a)(1)(A)(i) of the

Federal Rules of Civil Procedure, 'a plaintiff has an 22 absolute right to voluntarily dismiss his
action prior to service by the defendant of an answer or a 23 motion for summary judgment.' "

Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 24 F.3d 1074, 1077 (9th Cir. 1999)

(quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 25 1997)). The Ninth Circuit has

held that Rule 41(a) allows a plaintiff to dismiss without a court 26 order any defendant who has

yet to serve an answer or motion for summary judgment. Pedrina 27 v. Chun, 987 F.2d 608, 609

(9th Cir. 1993); see also Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995) ("Even if the

defendant has filed a motion to dismiss, the plaintiff may terminate his 1 | action voluntarily by

filing a notice of dismissal under Rule 41(a)(1)."). "[A] dismissal under 2 | Rule 41(a)(1) is

effective on filing, no court order is required, the parties are left as though no 3 | action had been

brought, the defendant can't complain, and the district court lacks jurisdiction to 4 | do anything

about it." Commercial Space Mgmt. Co., Inc., 193 F.3d at 1078. Accordingly, as 5 | no answer or

motion for summary judgment has been filed, the notice of voluntary dismissal is 6 | effective

under Rule 41(a){1}. 7 Accordingly, the Clerk of the Court is HEREBY DIRECTED to adjust the

docket to 8 | reflect voluntary dismissal of this action pursuant to Rule 41(a). It HEREBY

ORDERED that all 9 | pending dates are vacated, and all pending matters are terminated. 10

i IT IS SO ORDERED. DAM Le

12 | Dated: _July 10, 2025 _ Oe

STANLEY A. BOONE

13 United States Magistrate Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28