

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**BMO Bank N.A. fka BMO Harris Bank N.A. v. ABS Xpress, Inc.,
Benjamin Samano, an individual resident and citizen of California;
Does 1-10**

No. 1:25-cv-01572-KES-FRS, United States District Court for the Eastern District of California (January 8,
2026)

SUMMARY

The United States District Court for the Eastern District of California directs the Clerk to close the case and adjust the docket after the plaintiff filed a notice voluntarily dismissing the entire action without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i). The court notes that no answer or other responsive pleading had been filed and that the dismissal was effective upon filing.

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	January 8, 2026
DOCKET	1:25-cv-01572-KES-FRS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a notice voluntarily dismissing the entire action without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i), before any defendant filed an answer or other responsive pleading. The court directed the clerk to close the case and adjust the docket to reflect the dismissal.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not identified in the source.

TOPICS

- civil procedure
- commercial litigation
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff could voluntarily dismiss the entire action without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i) before defendants filed an answer or motion for summary judgment.
2. Whether a court order was required to effectuate the voluntary dismissal and whether the clerk should close the case.

HOLDINGS

1. A plaintiff has an absolute right to voluntarily dismiss an action under Rule 41(a)(1)(A)(i) before the defendant serves an answer or motion for summary judgment.
2. A Rule 41(a)(1) dismissal is effective upon filing, requires no court order, and leaves the parties as though no action had been brought; the clerk was therefore directed to close the case and adjust the docket.

KEY QUOTATIONS

“ “[U]nder Rule 41(a)(1)(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.’ ” ” (at 1)

“ “[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. ” ” (at 1)

FACTUAL BACKGROUND

BMO Bank N.A. filed the action against ABS Xpress, Inc., Benjamin Samano, and Doe defendants. Plaintiff filed a notice of voluntary dismissal of the entire action without prejudice on January 5, 2026, and no defendant had filed an answer or other responsive pleading.

PROCEDURAL HISTORY

BMO Bank filed a diversity action against ABS Xpress, Inc., Benjamin Samano, and Doe defendants. On January 5, 2026, before defendants filed an answer or other responsive pleading, plaintiff filed a notice of voluntary dismissal without prejudice. The court ordered the clerk to close the case and reflect the voluntary dismissal on the docket.

DISPOSITION

dismissed

CASES CITED

- Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077-78 (9th Cir. 1999)

- Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)

OPINION

BMO Bank N.A. fka BMO Harris Bank N.A. v. ABS Xpress, Inc., Benjamin Samano, an individual resident and citizen of California; DOES 1-10

PER CURIAM.

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UNITED STATES DISTRICT COURT

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9 EASTERN DISTRICT OF CALIFORNIA

10 BMO BANK N.A. fka BMO HARRIS BANK Case No. 1:25-cv-01572-KES-FRS 11 N.A., a national association,

ORDER DIRECTING CLERK OF COURT

12 Plaintiff, TO CLOSE CASE AND ADJUST DOCKET

TO REFLECT VOLUNTARY DISMISSAL

13 v. (ECF No. 5) 14 ABS XPRESS, INC., a California corporation; BENJAMIN SAMANO, an individual 15 resident and citizen of California; DOES 1-10, 16 Defendants. 17 On January 5, 2026, Plaintiff filed a notice of voluntary dismissal of the entire action 18 without prejudice pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. (ECF 19 No. 5.) 20 “[U]nder Rule 41(a)(1)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action 21 prior to service by the defendant of an answer or a motion for summary judgment.’” Commercial 22 Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson 23 v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). “[A] dismissal under Rule 41(a) (1) is 24 effective on filing, no court order is required, the parties are left as though no action had been 25 brought, the defendant can’t complain, and the district court lacks jurisdiction to do anything 26 about it.” Commercial Space Mgmt. Co., Inc., 193 F.3d at 1078. In this action, defendant has 27 not filed an answer or other responsive pleading. 1 Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this 2 |case and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a)(1). 3

4 T IS SO ORDERED. FA. Se

5 Dated: _ January 8, 2026 "

STANLEY A. BOONE

6 United States Magistrate Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28