

**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.

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 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

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