

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)

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

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