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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JUAN CHAVEZ,

Case No. 1:13-cv-00342-SKO (PC)

Plaintiff,

ORDER CLOSING CASE IN LIGHT OF  
STIPULATION FOR DISMISSAL WITH  
PREJUDICE

v.

CASTRO, et al.,

(Doc. 78)

Defendants.

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Plaintiff, Juan Chavez, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983. This action for damages is proceeding on Plaintiff's complaint against Defendant, E. Castro, for excessive force in violation of the Eighth Amendment for an incident that occurred during the quelling of a prison riot on March 27, 2012.

On February 28, 2017, the parties filed a stipulation of voluntary dismissal with prejudice of this matter pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Rule 41(a)(1)(A), in relevant part, reads:

the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; (ii) a stipulated dismissal signed by all parties who have appeared.

Rule 41(a)(1)(A)(ii) thus allows the parties to dismiss an action voluntarily, after service of an answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared, although an oral stipulation in open court will also suffice. *Carter v. Beverly Hills Sav. & Loan Asso.*, 884 F.2d 1186, 1191 (9th Cir. 1989); *Eitel v. McCool*, 782 F.2d 1470, 1472-73 (9th Cir.

1 1986). Once the stipulation between the parties who have appeared is properly filed or made in  
2 open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro.  
3 41(a)(1)(ii); *Eitel*, 782 F.2d at 1473 n.4. “Case law concerning stipulated dismissals under Rule  
4 41(a)(1)(ii) is clear that the entry of such a stipulation of dismissal is effective automatically and  
5 does not require judicial approval.” *In re Wolf*, 842 F.2d 464, 466 (D.C. Cir. 1989); *Gardiner v.*  
6 *A.H. Robins Co.*, 747 F.2d 1180, 1189 (8th Cir. 1984); *see also Gambale v. Deutsche Bank AG*,  
7 377 F.3d 133, 139 (2d Cir. 2004); *Commercial Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074,  
8 1077 (9th Cir. 1999) *cf. Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997) (addressing  
9 Rule 41(a)(1) dismissals). “The plaintiff may dismiss some or all of the defendants, or some or all  
10 of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically terminates the  
11 action as to the defendants who are the subjects of the notice.” *Wilson*, 111 F.3d at 692; *Concha v.*  
12 *London*, 62 F.3d 1493, 1506 (9th Cir. 1995).

13 This case terminated when the parties filed a stipulation for dismissal with prejudice under  
14 Rule 41(a)(1)(A)(ii) that was properly signed by the parties who have appeared and remain in this  
15 action. *See* Fed. R. Civ. Pro. 41(a)(1)(A)(ii); *In re Wolf*, 842 F.2d at 466; *Gardiner*, 747 F.2d at  
16 1189; *see also Gambale*, 377 F.3d at 139; *Commercial Space Mgmt*, 193 F.3d at 1077; *cf. Wilson*,  
17 111 F.3d at 692.

18 Therefore, **IT IS HEREBY ORDERED** that:

- 19 (1) the Clerk of the Court shall close this case in light of the properly executed  
20 Stipulation Of Dismissal With Prejudice under Federal Rule of Civil Procedure  
21 41(a)(1)(A)(ii) that was filed on February 28, 2017 (Doc. 78);
- 22 (2) all pending hearing dates are **VACATED**;
- 23 (3) the transportation writ to bring Plaintiff to this Court for the settlement conference  
24 on March 9, 2017, is **VACATED**;
- 25 (4) all pending motions are **DISREGARDED** since rendered moot by the settlement;  
26 and

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(5) the Clerk of the Court shall forward a copy of this order to the Litigation Coordinator at Centinela State Prison and to the person responsible for coordinating Plaintiff's transportation for the vacated March 9, 2017, settlement conference.

IT IS SO ORDERED.

Dated: February 28, 2017

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE