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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 NATIVIDAD GUTIERREZ,

12 Plaintiff,

13 vs.

14 MANUEL NUNEZ, et al.,

15 Defendants.
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) Case No. 1:14-CV-01066-GSA

) NOTICE OF VOLUNTARY DISMISSAL
) WITHOUT PREJUDICE AS TO
) DEFENDANT AUGUSTIN OROZCO
) ONLY; ORDER DIRECTING THE
) CLERK OF COURT TO TERMINATE
) DEFENDANT AUGUSTIN OROZCO
) FROM THE DOCKET

) (Doc. 19)

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18 WHEREAS, Defendant Augustin Orozco has not filed an answer or motion for summary
19 judgment;

20 WHEREAS, no counterclaims or cross-claims have been filed;

21 Plaintiff hereby dismisses only Defendant Augustin Orozco without prejudice,
22 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).
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24 Date: November 26, 2014

MOORE LAW FIRM, P.C.

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26 /s/ Tanya E. Moore

Tanya E. Moore
Attorneys for Plaintiff
Natividad Gutierrez

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NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANT
AUGUSTIN OROZCO ONLY; ORDER

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2 **ORDER**

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4 On November 24, 2014, Plaintiff Natividad Gutierrez (“Plaintiff”) filed the foregoing
5 notice of voluntary dismissal as to Defendant Augustin Orozco, pursuant to Federal Rule of
6 Civil Procedure 41(a)(1)(A)(i). Doc. 19.

7 A plaintiff may voluntarily dismiss a defendant from an action pursuant to Federal Rule
8 of Civil Procedure 41(a)(1)(A). Rule 41(a)(1)(A), in relevant part, provides:

9 [T]he plaintiff may dismiss an action without a court order by filing: (i) a notice
10 of dismissal before the opposing party serves either an answer or a motion for
11 summary judgment; or (ii) a stipulation of dismissal signed by all parties who
12 have appeared.

13 “The plaintiff may dismiss either some or all of the defendants—or some or all of his claims—
14 through a Rule 41(a)(1) notice.” *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995). Rule
15 41(a)(1)(B) further provides that a dismissal pursuant to Rule 41(a)(1)(A) is without prejudice
16 “[u]nless the notice or stipulation states otherwise.”

17 A notice of dismissal under Rule 41(a)(1) is self-executing; a court order is not required
18 to effectuate the dismissal. *Concha*, 62 F.3d at 1506 (“The dismissal is effective on filing [of a
19 notice pursuant to Rule 41(a)(1)] and no court order is required.”). “Filing a notice of
20 voluntary dismissal with the court automatically terminates the action as to the defendants who
21 are the subjects of the notice.” *Id.* “Such a dismissal leaves the parties as though no action had
22 been brought.” *Id.*

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24 Here Plaintiff has filed a notice of voluntary dismissal, without prejudice, as to
25 Defendant Augustin Orozco, before the latter has served an answer. Therefore, pursuant to
26 Rule 41(a)(1)(A), the dismissal, without prejudice, of Defendant Augustin Orozco was
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NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANT
AUGUSTIN OROZCO ONLY; ORDER

1 effective upon the filing of Plaintiff's notice of voluntary dismissal. Accordingly, the Clerk of
2 Court is directed to terminate Defendant Augustin Orozco from the docket.

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IT IS SO ORDERED.

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Dated: November 26, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANT
AUGUSTIN OROZCO ONLY; ORDER