## 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 WILLIAM L. SNOW, Case No.: 1:15-cv-01606-SAB (PC) 12 Plaintiff, ORDER DIRECTING DEFENDANT TO FILE A RESPONSE TO PLAINTIFF'S NOTICE OF 13 v. **VOLUNTARY DISMISSAL WITHIN TEN DAYS** OF THE DATE OF SERVICE OF THIS ORDER 14 DOCTOR SHWE, 15 [ECF No. 42] Defendant. 16 Plaintiff William L. Snow is appearing pro se and in forma pauperis in this civil rights action 17 pursuant to 42 U.S.C. § 1983. 18 This action is proceeding against Defendant Dr. Shwe for deliberate indifference to a serious 19 20 medical need in violation of the Eighth Amendment. 21 On December 22, 2016, Defendant filed an answer to the complaint. On January 9, 2017, the 22 Court issued the discovery and scheduling order. 23 On February 27, 2017, Plaintiff filed a notice of voluntary dismissal. Because Defendant has 24 filed an answer, Plaintiff cannot automatically dismiss the action through the notice of voluntary 25 dismissal. Fed. R. Civ. P. 41(a)(2). 26 Federal Rule of Civil Procedure 41(a)(2) provides that after an answer or motion for summary 27 judgment has been filed, "an action may be dismissed at the plaintiff's request only by court order, on

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terms that the court considers proper." Fed. R. Civ. P. 41(a)(2).

Accordingly, within **ten (10)** days from the date of service of this order, Defendant shall file an opposition or statement of non-opposition to Plaintiff's notice of voluntary dismissal.

IT IS SO ORDERED.

Dated: March 1, 2017

UNITED STATES MAGISTRATE JUDGE