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3 **UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF CALIFORNIA**
5

6 **STEPHEN A. CARROLL ,**
7

8 **Plaintiff,**

9 **v.**

10 **CITY OF MODESTO, and DOES 1 to 5,**
11

12 **Defendants.**
13

CASE NO. 1:15-CV-01691 AWI SKO

**ORDER SETTING DEADLINE FOR
PLAINTIFF TO FILE A NOTICE OF
DISMISSAL**

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15 On November 25, 2015, Defendant City of Modesto (“Modesto”) filed a motion to dismiss
16 Plaintiff Stephen Carroll’s (“Carroll”) complaint for failure to state a claim upon which relief can
17 be granted under Federal Rule of Civil Procedure 12(B)(6). The parties thereafter stipulated to a
18 stay on litigation pending Plaintiff’s criminal trial.

19 On February 21, 2017 Order Lifting Stay and Setting Briefing Schedule, Carroll was
20 required to file an opposition to Modesto’s motion by March 10, 2017. As noted by Modesto’s
21 March 17, 2017 Reply to Plaintiff’s Non-Opposition, Carroll failed to file any opposition to
22 Modesto’s motion. Modesto’s motion to dismiss is currently pending. On March 17, 2017,
23 Carroll emailed the Court in an ex parte communication, and asked the Court to dismiss this case
24 on or after March 27, 2017.

25 The Court will not dismiss a case based on a party’s request stated in an ex parte email.
26 The Court will grant Carroll until March 31, 2017 to file a formal dismissal of his case with the
27 Court. If the Court does not receive a filed dismissal from Carroll on or before March 31, 2017,
28 the Court will thereafter issue a ruling on Modesto’s motion to dismiss.

ORDER

Accordingly, IT IS HEREBY ORDERED that: Carroll has until March 31, 2017 at 1:00 p.m. to file a formal dismissal of his case with the Court.¹

IT IS SO ORDERED.

Dated: March 22, 2017



SENIOR DISTRICT JUDGE

¹ Carroll's filing must be received no later than March 31, 2017 at 1:00 p.m. by the clerk's office; the mailbox rule does not apply here.