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6 Attorneys for Defendants, County of Kings, Marius Barsteceanu, Taylor Lopes, and Thomas
7 Olsen

8 **UNITED STATES DISTRICT COURT**

9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 STACEY BERBEREIA, individually and on)
11 behalf of the ESTATE OF ALBERT)
12 HANSON, JR., DANIEL HANSON, and)
KIMBERLY NIZ,)

13 Plaintiffs,)

14 vs.)

15 COUNTY OF KINGS; DEPUTY TAYLOR)
16 LOPES; DETECTIVE MARIUS)
17 BARSTECEANU; DEPUTY THOMAS)
18 OLSON; UNKNOWN LAW)
ENFORCEMENT OFFICERS,)

19 Defendants.)

CASE NO. 1:16-cv-00363-LJO-SKO

**ORDER GRANTING STIPULATION
OF DISMISSAL
[FRCP 41(a)]**

(Doc. 61)

20
21 Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, the parties to this action,
22 through their attorneys of record, stipulate to dismissal of Defendants, County of Kings, Marius
23 Barsteceanu, Taylor Lopes, and Thomas Olsen with prejudice from all claims alleged in the
24 complaints in this action. All parties to bear their own costs and attorney's fees.

25 July 20, 2018

26 /s/ Kevin G. Little
Kevin G. Little
27 Law Office of Kevin G. Little
1225 Divisadero Street
28 Fresno, CA 93721
Attorney for Plaintiffs

1 July 20, 2018

2 /s/ James J. Arendt
3 James J. Arendt
4 Michelle E. Sassano
5 WEAKLEY & ARENDT
6 A Professional Corporation
7 1630 East Shaw Ave., Suite 176
8 Fresno, CA 93710
9 Attorneys for Defendants
10

11 **ORDER**

12 On July 20, 2018, the parties filed the above stipulation requesting that the present action
13 be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1), with each party
14 to bear its own costs and attorney's fees. (Doc. 61.)

15 In relevant part, Rule 41(a)(1)(A) provides as follows:

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

19 Fed. R. Civ. P. 41(a)(1)(A). Rule 41 thus allows the parties to dismiss an action voluntarily, after
20 service of an answer, by filing a written stipulation to dismiss signed by all parties who have
21 appeared, although an oral stipulation in open court will also suffice. *See Eitel v. McCool*, 782
22 F.2d 1470, 1472-73 (9th Cir. 1986).

23 Once the stipulation between the parties who have appeared is properly filed or made in
24 open court, no order of the court is necessary to effectuate dismissal. Case law concerning
25 stipulated dismissals under Rule 41(a)(1)(A)(ii) is clear that the entry of such a stipulation of
26 dismissal is effective automatically and does not require judicial approval. *Commercial Space*
27 *Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999). Because the parties have filed a
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stipulation for dismissal of this case with prejudice under Rule 41(a)(1)(A)(ii) that is signed by all parties who have made an appearance, this case has terminated. Fed. R. Civ. P. 41(a)(1)(A)(ii).

Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court close this case.

IT IS SO ORDERED.

Dated: July 23, 2018

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE