

1 F.3d 1074, 1077 (9th Cir. 1999) (quoting *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir.
2 1997)). Here, Defendant has filed an answer, so Plaintiff cannot voluntarily dismiss this action
3 pursuant to Rule 41(a)(1)(A)(i).

4 Federal Rule of Civil Procedure 41(a)(1)(A)(ii) provides that a “plaintiff may dismiss an
5 action without a court order by filing a stipulation of dismissal signed by all parties who have
6 appeared.” Fed. R. Civ. P. 41(a)(1)(A)(ii). Therefore, Plaintiff may dismiss this action by filing a
7 stipulation of dismissal that is signed by all parties who have appeared. However, the motion
8 filed by Plaintiff includes only Plaintiff’s signature.

9 A party may also dismiss an action by filing a motion requesting the Court to dismiss the
10 action. Fed. R. Civ. P. 41(a)(2). A motion for voluntary dismissal under Rule 41(a)(2) is
11 addressed to the sound discretion of the district court. *Hamilton v. Fireston Tire & Rubber Co.*
12 *Inc.*, 679 F.2d 143, 145 (9th Cir. 1982).

13 The Court finds that Plaintiff is attempting to file a motion to dismiss this action pursuant
14 to Rule 41(a)(2). Therefore, Defendant is directed to file an opposition or statement of non-
15 opposition to the motion. Alternatively, Defendant may obtain a stipulation of dismissal that is
16 signed by all parties appearing in this action.

17 Accordingly, within **seven (7) days** from the date of service of this order, Defendant is
18 DIRECTED to file either:

- 19 1. An opposition or statement of non-opposition to Plaintiff’s motion to dismiss this action;
- 20 or
- 21 2. A stipulation to dismiss this action pursuant to Federal Rule of Civil Procedure
22 41(a)(1)(A)(ii), signed by all parties appearing in this action.

23
24 IT IS SO ORDERED.

25 Dated: October 26, 2021

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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