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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT PALMER,

 Plaintiff,

 v.

CALIFORNIA HIGHWAY PATROL
OFFICER IOSEFA, et al.,

 Defendants.

No. 1:16-cv-00787-SKO

ORDER RE: DISMISSAL WITH PREJUDICE
OF PLAINTIFF’S SUPERVISORY
LIABILITY CLAIM (THIRD CLAIM FOR
RELIEF)

At the pretrial conference held September 5, 2018, the parties stipulated on the record to the dismissal of Plaintiff’s supervisory liability claim under 42 U.S.C. § 1983 (Third Claim for Relief), with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

In relevant part, Rule 41(a)(1)(A)(ii) provides as follows: [A] plaintiff may dismiss an action without a court order by filing. . . (ii) a stipulation of dismissal signed by all parties who have appeared. Fed. R. Civ. P. 41(a)(1)(A). “The plaintiff may dismiss some or all of the defendants, or some or all of his claims” through a Rule 41(a)(1) stipulation. *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). Such stipulation may be made orally in open court. *See Carter v. Beverly Hills Sav. & Loan Asso.*, 884 F.2d 1186, 1191 (9th Cir. 1989); *Eitel v. McCool*, 782 F.2d 1470, 1472-73 (9th Cir. 1986).

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Because the parties orally stipulated in open court to the dismissal of Plaintiff's supervisory liability claim under 42 U.S.C. § 1983 (Third Claim for Relief), with prejudice under Rule 41(a)(1)(A)(ii), that claim has been DISMISSED. Fed. R. Civ. P. 41(a)(1)(A).

This case shall remain OPEN pending resolution of Plaintiff's remaining claims against Defendant.

IT IS SO ORDERED.

Dated: September 6, 2018

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE