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5 **UNITED STATES DISTRICT COURT**  
6 **EASTERN DISTRICT OF CALIFORNIA**  
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8 KATHY M. MARTIN and DANNY  
9 MARTIN,

10 Plaintiff,

11 v.

12 UNITED STATES OF AMERICA,

13 Defendant.  
14

Case No. 1:16-cv-001703-SAB

ORDER DISMISSING DANNY MARTIN'S  
LOSS OF CONSORTIUM CLAIM AND  
DIRECTING CLERK OF COURT  
TERMINATE PLAINTIFF DANNY  
MARTIN FROM THE DOCKET

(ECF No. 19)

15 On November 8, 2016, Plaintiffs Kathy M. Martin and Danny Martin filed the complaint  
16 in this action against the United States of America. (ECF No. 1.) The complaint alleged a third  
17 cause of action by Danny Martin for loss of consortium. (Id.) On February 9, 2018, the parties  
18 filed a pretrial statement in which the parties stated that Plaintiff Danny Martin had not filed an  
19 administrative tort claim as required by 28 U.S.C. §§ 2401(b), 2675(a) and they were stipulating  
20 to dismiss his claim from this lawsuit. (ECF No. 15.) The pretrial order issued on February 21,  
21 2018, and the parties were ordered to file a stipulation to dismiss on or before February 23, 2018.  
22 On February 23, 2018, the parties filed a stipulation to dismiss the third cause of action, the loss  
23 of consortium claim brought by Danny Martin, with prejudice.

24 Pursuant to Rule 41 of the Federal Rules of Civil Procedure, "an action may be dismissed  
25 at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R.  
26 Civ. P. 41(a)(2). "The plaintiff may dismiss some or all of the defendants, or some or all of his  
27 claims, through a Rule 41(a)(1) notice." Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir.  
28 1997). Here, Plaintiff Danny Martin has dismissed all his claims in this action.

1 Accordingly, pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

- 2 1. Plaintiff Danny Martin's cause of action for loss of consortium is dismissed with  
3 prejudice; and  
4 2. The Clerk of the Court is directed to terminate Plaintiff Danny from the docket.

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6 IT IS SO ORDERED.

7 Dated: February 23, 2018

  
UNITED STATES MAGISTRATE JUDGE