UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RUFUS HERNANDEZ,
 	
                    Plaintiff,
 	
       v.
 	
MARTIN, et al.,
 	
                    Defendants.
	1:17-cv-00429-JLT (PC)
	
	ORDER FOR PARTIES TO ADVISE WHETHER THEY STIPULATE TO DISMISSAL OF THIS ACTION PER FEDERAL RULE OF CIVIL PROCEDURE 41
	
	(Doc. 33)

On June 14, 2018, Plaintiff filed a notice of his desire to voluntarily dismiss this action. (Doc. 33.) The Court construes Plaintiff's notice as an attempt to voluntarily dismiss this action pursuant to Federal Rule of Civil Procedure 41 ("Rule 41").

Rule 41(a)(1)(A) allows a Plaintiff to "dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared." Subsection (B) of Rule 41 provides that, "[u]nless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits." Subsection (2) of Rule 41 provides in pertinent part that, "[e]xcept as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms

that the court considers proper. . . ." Defendants have answered and their motion for summary judgment is currently pending. Thus, at this stage in the litigation, Plaintiff may not simply dismiss the action of his own accord. Accordingly, the Court **ORDERS**:

      1. Defendants shall file a statement within **10 days** noting any objections to the dismissal of the action;

IT IS SO ORDERED.

Dated: __**June 18, 2018**__   __**/s/ Jennifer L. Thurston**__
                                               UNITED STATES MAGISTRATE JUDGE