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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 EDWARD B. SPENCER,

12 Plaintiff,

13 vs.

14 STU SHERMAN,

15 Defendant.  
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1:17-cv-00479-AWI-GSA-PC

ORDER RE DISMISSAL OF CASE  
(ECF No. 33.)

ORDER DIRECTING CLERK OF COURT TO  
CLOSE CASE

18 Edward B. Spencer (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*  
19 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983.

20 On January 29, 2019, a settlement conference was held at the court before United States  
21 Magistrate Judge Jennifer L. Thurston, and this case settled. (ECF No. 32.) On January 30,  
22 2019, defense counsel filed a stipulation for voluntary dismissal of this action with prejudice  
23 under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), signed by Plaintiff, representing himself,  
24 and defense counsel, indicating that they have resolved this case in its entirety. (ECF No. 33.)  
25 The parties stipulated that each party shall bear its own litigation costs and attorney’s fees. (*Id.*)

26 Rule 41(a)(1)(A)(ii) provides: “Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any  
27 applicable federal statute, the plaintiff may dismiss an action without a court order by filing a  
28 stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(ii).

1 This case now proceeds only against defendant S. Sherman, who has appeared in this  
2 action. Given that all parties who have appeared in this action signed the stipulation, this case is  
3 dismissed with prejudice under Rule 41(a)(1)(A)(ii), pursuant to the parties' stipulation of  
4 voluntary dismissal filed in this case on January 31, 2019.

5 Based on the foregoing, IT IS HEREBY ORDERED that:

- 6 1. This action is dismissed with prejudice pursuant to Federal Rule of Civil  
7 Procedure 41(a)(1)(A)(ii), and each party shall bear its own litigation costs and  
8 attorney's fees; and
- 9 2. The Clerk of the Court is directed to vacate all pending dates, deadlines, and  
10 hearings, and close this case.

11 IT IS SO ORDERED.

12 Dated: January 31, 2019

13 /s/ Gary S. Austin  
14 UNITED STATES MAGISTRATE JUDGE

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