



1 under Rule 41 of the Federal Rules of Civil Procedure, under which “the plaintiff may dismiss an action  
2 without a court order by filing . . . a notice of dismissal before the opposing party serves either an  
3 answer or a motion for summary judgment.” Because the identified defendants had not appeared or  
4 filed an answer, the claims were automatically terminated. *Id.*; *see also Wilson v. City of San Jose*, 111  
5 F.3d 688, 692 (9th Cir. 1997). Accordingly, the Court **ORDERS**:

- 6 1. The Findings and Recommendations dated August 13, 2019 (Doc. 8) are withdrawn;
- 7 2. The action is **CLOSED** as to Officer Waltree, Sgt. Woods, the Bakersfield Police  
8 Department, and the City of Bakersfield only pursuant to Plaintiff’s request under Rule  
9 41 (Doc. 12);
- 10 3. The Clerk of Court is **DIRECTED** to update the docket and terminate the identified  
11 defendants; and
- 12 4. The action **SHALL** proceed only upon Plaintiff’s claims under Section 1983 for  
13 excessive force against Teri Harless.

14  
15 IT IS SO ORDERED.

16 Dated: August 26, 2019

/s/ Jennifer L. Thurston  
17 UNITED STATES MAGISTRATE JUDGE