

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JANE DOE #2,

Plaintiff,

V.

STATE OF CALIFORNIA, et al.,

## Defendants

| Case No. 1:23-cv-00869-JLT-SAB

ORDER GRANTING EXTENSION OF TIME TO  
FILE DISPOSITIONAL DOCUMENTS,  
DISCHARGING ORDER TO SHOW CAUSE,  
AND DISMISSING ACTION PURSUANT TO  
NOTICE OF VOLUNTARY DISMISSAL

(ECF Nos. 16, 17, 18)

On October 3, 2023, this matter was settled at a settlement conference at least as to some named parties, and dispositional documents were to be filed within thirty (30) days. (ECF No. 15.) On November 7, 2023, the Court issued an order to show cause as neither dispositional

On November 7, 2023, counsel for Plaintiff filed a response to the order to show cause indicating that: the parties were working on draft settlement agreements after the date of settlement; the final drafts of these agreements were emailed by defense counsel on October 23, 2023; after receipt of the final drafts, Plaintiff's counsel worked diligently to obtain client signatures, and obtained the client's signature on October 24, 2023; counsel for Plaintiff emailed the executed settlement agreement to defense counsel on October 25, 2023; counsel for Plaintiff has requested a fully executed copy of the Settlement Agreement and Release prior to filing

1 dismissal documents, but has not been provided a fully executed copy as of the date of the  
2 declaration; counsel for Plaintiff has indicated that he will sign and return dismissal documents as  
3 soon as Jane Doe #2 receives a copy of the fully executed settlement agreement; counsel for  
4 Plaintiff respectfully requests an additional 30 days to file dismissal documents as it is unknown  
5 when a fully executed copy will be provided; and counsel will immediately sign and return  
6 dispositional documents upon receipt of the fully executed settlement agreement. (ECF No. 17 at  
7 1-2.)

8 While Defendants have not directly provided a response to the order to show cause, in  
9 light of the Plaintiff's filing, and the stipulation of dismissal immediately filed thereafter by  
10 Defendants, discussed next, the Court shall discharge the order to show cause. However, in most  
11 cases, the Court would not discharge an order to show cause until all parties have explained their  
12 positions.

13 On November 9, 2023, a stipulation of dismissal was filed pursuant to Rule 41(a)(1)(A)(ii)  
14 of the Federal Rules of Civil Procedure. (ECF No. 18.) The stipulation is filed by counsel for  
15 Plaintiff, and by counsel for Defendants State of California, CDCR, and M. Pallares. Defendant  
16 Greg Rodriguez is named as a Defendant, however, has not appeared in this action, as noted in  
17 the filing. No Defendant has filed an answer or motion for summary judgment. The filing  
18 provides that the stipulating parties agree to dismissal of this action and all claims and causes of  
19 action with prejudice, and with the parties to bear their own costs and attorneys' fees.

20 Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, 'a plaintiff has an  
21 absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a  
22 motion for summary judgment.' " Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193  
23 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir.  
24 1997)). Additionally, Federal Rule of Civil Procedure 41(a)(1)(A)(ii) provides that a "plaintiff  
25 may dismiss an action without a court order by filing a stipulation of dismissal signed by all  
26 parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A)(ii).

27 In light of the filing, this action has been terminated, Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii);  
28 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997), and has been dismissed with

1 prejudice and without an award of costs or attorneys' fees.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The order to show cause issued on November 7, 2023, (ECF No. 16), is  
4 DISCHARGED;

5 2. Plaintiff's request for an extension of time to file dispositional documents is  
6 GRANTED; and

7 3. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust the  
8 docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

9  
10 IT IS SO ORDERED.

11 Dated: November 13, 2023



---

UNITED STATES MAGISTRATE JUDGE

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28