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

10
11 JOHN ELMER,
12 Plaintiff,
13 v.
14 HINKLEY, et al.,
15 Defendants.

Case No. 1:24-cv-00871-SAB
ORDER DIRECTING THE CLERK OF THE
COURT TO TERMINATE HINKLEY AS A
DEFENDANT IN THIS ACTION
(ECF No. 26)

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17 On March 6, 2025, Plaintiff filed a notice of dismissal of Defendant Hinkley without
18 prejudice. (ECF No. 26.) Rule 41(a) of the Federal Rules of Civil Procedure allows a party to
19 dismiss some or all of the defendants in an action through a Rule 41(a) notice. Wilson v. City of
20 San Jose, 111 F.3d 688, 692 (9th Cir. 1997); see also Concha v. London, 62 F.3d 1493, 1506 (9th
21 Cir. 1995) (“The plaintiff may dismiss either some or all of the defendants—or some or all of his
22 claims—through a Rule 41(a)(1) notice.”)).

23 Defendant Hinkley has not filed an answer or a motion for summary judgment in this
24 action. Under Rule 41(a)(1)(A)(i) a “plaintiff may dismiss an action without a court order by
25 filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for
26 summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i).

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1 Accordingly, the Clerk of the Court is DIRECTED to terminate Hinkley as a defendant in
2 this action.

3 IT IS SO ORDERED.

4 Dated: March 6, 2025



5 STANLEY A. BOONE
6 United States Magistrate Judge

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