

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

JOHN ELMER,

Plaintiff,

v.

HINKLEY, et al.,

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)

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

Defendant Hinkley has not filed an answer or a motion for summary judgment in this action. Under Rule 41(a)(1)(A)(i) a “plaintiff may 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.” 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  
4 IT IS SO ORDERED.

5 Dated: March 6, 2025



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STANLEY A. BOONE  
United States Magistrate Judge