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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARTHUR MCCOY,

No. C 11-01569 WHA

Plaintiff,

v.

**NOTICE REGARDING
DISMISSAL OF CLAIMS**

ALAMEDA COUNTY, a municipal corporation; B. BARKER; ERICH D. MARAPAO; N. GONZALGO; STUART BARNES; and DOES 1–25, inclusive,

Defendants.

The parties filed a stipulation to dismiss under FRCP 41(A)(1) claims 6 (negligence) and 7 (breach of duty to supervise, train and discipline) in plaintiff's amended complaint (Dkt. No. 29). Our court of appeals has held that a plaintiff may not use Rule 41(a)(1) to dismiss one or more but less than all of several claims. *Hells Canyon Preservation Council v. U.S. Forest Service*, 403 F.3d 683, 687–688 (9th Cir. 2005). "Federal Rule of Civil Procedure 15(a) is the appropriate mechanism [w]here a plaintiff desires to eliminate an issue, or one or more but less than all of several claims, but without dismissing as to any of the defendants." *id.* at 688. According, the purported dismissal was invalid. The parties instead should file a motion for leave to amend the complaint

Dated: November 18, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE