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UNITED STATES DISTRICT COURT
For the Northern District of California

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

ROBERT OVETZ,

No. C 12-6180 LB

Plaintiff,

**ORDER DENYING PLAINTIFF'S
NOTICE OF DISMISSAL**

v.

CITY OF OAKLAND, a municipal corporation; OAKLAND POLICE DEPARTMENT, a municipal corporation; HOWARD JORDAN in his capacity as CHIEF of POLICE for CITY OF OAKLAND POLICE DEPARTMENT; ERCIVAN MARTIN, OAKLAND POLICE SERGEANT BEAVER, OAKLAND POLICE OFFICER C. O'CONNOR and DOES 1-20, inclusive individually and in their official capacities as POLICE OFFICERS for the CITY OF OAKLAND,

Defendants.

On February 12, 2014, Plaintiff Robert Ovetz filed a "Notice of Dismissal with Prejudice" under Federal Rule of Civil Procedure 41(a)(1)(A)(i) because the parties have settled the case. See ECF No. 41.¹ Under Rule 41(a)(1)(A), a voluntary dismissal by the Plaintiff can occur without a court order as follows:

¹ Citations are to the Electronic Case File ("ECF") with pin cites to the electronically-generated page numbers at the top of the document.

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Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the 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*; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41 (emphasis added). Here, Defendants filed their answer on February 15, 2013. *See* ECF No. 12. Mr. Ovetz did not file his notice of voluntary dismissal until February 12, 2014, almost one year later. *See* ECF No. 41. Because Defendants have answered, the parties must file a stipulation of dismissal. *See* Fed. R. Civ. P. 41(a)(1)(A)(ii). The court directs them to do so by February 28, 2014.

IT IS SO ORDERED.

Dated: February 14, 2014


LAUREL BEELER
United States Magistrate Judge