

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RON COOK,

Plaintiff,

v.

RON SIMS, et al.,

Defendants.

Case No. 1:21-cv-01478-AWI-EPG

ORDER DIRECTING DEFENDANTS RON
SIMS, JAMES FUNK, SALINA CORREA,
AND FLOYD AVILA TO SUBMIT FILING
REGARDING STIPULATION OF DISMISAL

(ECF No. 42)

On March 1, 2023, Plaintiff Ron Cook and Defendants Flor Garcia and Pacific Valley Patrol, Inc. filed a stipulation of dismissal with prejudice of the claims against these Defendants under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).¹ However, because Rule 41(a)(1)(A)(ii) requires a stipulation of dismissal to be “signed by all parties who have appeared,” and only Plaintiff and Defendants Flor Garcia and Pacific Valley Patrol, Inc. have signed the stipulation, the Court will require the remaining Defendants in the case who have appeared—Ron Sims, James Funk, Salina Correa, and Floyd Avila—to submit a filing approving or opposing the stipulation of dismissal. *See Thacker v. AT&T Corp.*, No. 2:20-CV-00255-KJM-CKD PS, 2021 WL 1784873, at *1 (E.D. Cal. May 5, 2021), *report and recommendation adopted*, 2021 WL 4168533 (E.D. Cal. Sept. 14, 2021) (noting that court was “unaware of any case waiving the

¹ The stipulation also cites Rule 41(a)(2), which permits a court to dismiss an action at the Plaintiff’s request “on terms that the court considers proper.” However, because the parties seek to “stipulate” to the dismissal of the claims against Defendants Flor Garcia and Pacific Valley Patrol, Inc., Rule 41(a)(1)(A)(ii) governs.

1 requirement that the stipulation . . . must be made by all parties who have appeared” and that
2 “[t]he requirement to obtain all parties’ consent to voluntarily dismiss (without a court order) is
3 intended to ensure that a voluntary dismissal of a party at later stages of the litigation does not
4 cause plain legal prejudice to the party to be dismissed or to the remaining defendant(s)”).

5 Accordingly, IT IS ORDERED as follows:

- 6 1. By no later than March 10, 2023, Defendants Ron Sims, James Funk, Salina Correa, and
7 Floyd Avila shall file a signed document reflecting their approval of the stipulation of
8 dismissal (ECF No. 42) or file a response opposing the stipulation of dismissal.
- 9 2. Alternatively, by no later than March 10, 2023, the parties may file a stipulation of
10 dismissal signed by *all* parties who have appeared in this action in compliance with Rule
11 41(a)(1)(A)(ii).

12
13 IT IS SO ORDERED.

14 Dated: March 2, 2023

15 /s/ Eric P. Gray
16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26
27
28