

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

Courthouse News Service v. Toste

No. 1:21-cv-01790-ADA-SAB (E.D. Cal. Mar. 3, 2023) · No. 1:21-cv-01790-ADA-SAB · Decided March 3,
2023

SUMMARY

The United States District Court for the Eastern District of California addressed a stipulated dismissal under Federal Rule of Civil Procedure 41(a) concerning Defendant Amanda Toste. The court directed the clerk to terminate Toste as a defendant, with prejudice, while the claims against the remaining defendants remained active.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 COURTHOUSE NEWS SERVICE, Case No. 1:21-cv-01790-ADA-SAB 12
Plaintiff, AMENDED ORDER DIRECTING THE CLERK OF THE COURT TO TERMINATE
13 v. AMANDA TOSTE AS A DEFENDANT IN THIS ACTION 14 AMANDA TOSTE, et al.,
(ECF No. 31) 15 Defendants. 16 17 On March 1, 2023, the parties filed a stipulated dismissal
pursuant to Federal Rule of Civil 18 Procedure 41(a) as to the dismissal of Defendant Amanda
Toste, in her official capacity as court 19 executive officer/clerk of the Merced County Superior
Court.

(ECF No. 31.) The dismissal of 20 this Defendant is with prejudice. (Id.) The claims against the
other named Defendants are not 21 subject to the stipulation and will remain active. (Id.) 22 Rule
41(a) of the Federal Rules of Civil Procedure allows a party to dismiss some or all of 23 the
defendants in an action through a Rule 41(a) notice. *Wilson v. City of San Jose*, 111 F.3d 24 688,
692 (9th Cir.

1997); see also *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) (“The 25 plaintiff may
dismiss either some or all of the defendants—or some or all of his claims—through 26 a Rule
41(a)(1) notice.”)); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 687 27 (9th
Cir. 2005) (The Ninth Circuit has “only extended the rule to allow the dismissal of all claims
against one defendant, so that a defendant may be dismissed from the entire action.”). “Filing a 1]
notice of voluntary dismissal with the court automatically terminates the action as to the 2
defendants who are the subjects of the notice.” *Concha*, 62 F.3d at 1506.

3 Accordingly, the Clerk of the Court is DIRECTED to terminate Defendant Amanda Toste 4| asa
defendant in this action. 5 6 IT IS SO ORDERED. DAA Le 7 | Dated: _March 3, 2023 _ UNITED

