

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 12-3113 PA (FFMx)	Date	October 3, 2012
Title	Maria Macias, et al. v. City of Long Beach		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE
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Paul Songco Deputy Clerk	Not Reported Court Reporter	N/A Tape No.
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Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: IN CHAMBERS

At the scheduling conference conducted on September 17, 2012, counsel for plaintiffs Maria Macias and Lidia Amesquita (“Plaintiffs”) admitted that the Complaint erroneously asserted claims on behalf of Macias in a representative capacity as the successor in interest to decedent Ismael Lopez (“Decedent”). At the scheduling conference, Plaintiffs’ counsel conceded that those claims should instead be asserted by Amesquita, Decedent’s mother. Plaintiff’s counsel asked the Court to have until September 24, 2012 to file a First Amended Complaint to correct and clarify which claims were being asserted by Amesquita and which claims were being asserted by Macias. In the order following the Scheduling Conference, the Court ordered that Plaintiffs “shall file an amended complaint by no later than September 24, 2012.”

To date, and despite the expiration of their deadline to do so, Plaintiffs have not filed a First Amended Complaint. Instead, on October 2, 2012, Plaintiffs filed a Declaration of Lidia Amesquita that states that Amesquita is the Decedent’s successor in interest. Additionally, the parties’ revised Joint 26(f) Report, filed on October 2, 2012, acknowledges that Plaintiffs were ordered to file an Amended Complaint but had failed to do so. While Amesquita’s Declaration establishes that the original Complaint improperly asserts claims on behalf of Macias that she is not legally entitled to bring, the Declaration does not cure the pleading deficiencies in the original Complaint identified during the scheduling conference.

Because the original Complaint does not properly allege claims on behalf of the proper plaintiff, the Court dismisses the original Complaint with leave to amend. Despite Plaintiffs’ counsel’s failure to file a First Amended Complaint within the deadline he previously requested, the Court will allow Plaintiffs until 12:00 p.m. on October 12, 2012, to file their First Amended Complaint. The failure to file a First Amended Complaint by that date and time may result in the dismissal of this action without prejudice without further warning by the Court.

Initials of Preparer

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Plaintiffs' counsel is ordered to show cause in writing no later than 12:00 p.m. on October 12, 2012, why he should not be sanctioned in an amount up to \$500 for violating the Court's September 17, 2012 order that he file a First Amended Complaint by no later than September 24, 2012.

IT IS SO ORDERED.

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