

1 EDMUND G. BROWN JR., State Bar No. 37100
Attorney General of California
2 PAMELA J. HOLMES, State Bar No. 147360
Supervising Deputy Attorney General
3 RAYMOND L. FITZGERALD, State Bar No. 134827
Deputy Attorney General
4 BENJAMIN BARNOUW, State Bar No. 168581
Deputy Attorney General
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6404
6 Fax: (213) 897-9395

7 *Attorneys for Defendants Matthew Palmer, et al.*

8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 DANIEL PROVENCIO, JR., personally and
12 as successor in interest to DANIEL
13 PROVENCIO, deceased, by his guardian ad
14 litem, MARIA LUCERO, NANCY
MENDOZA, and JOHNNY G. PROVENCIO,

15 Plaintiffs,

16 vs.

17 PATRICIA L. VAZQUEZ, et al,

18 Defendants.

CASE NO 1:07-cv-0069 OWW-JLT
(**The Honorable Oliver W. Wanger**)

JOINT STIPULATION AND ORDER
DISMISSING CLAIMS OF PLAINTIFF,
DANIEL PROVENCIO, JR. PERSONALLY
AND AS SUCCESSOR IN INTEREST TO
DECEDENT DANIEL D. PROVENCIO

1 **IT IS HEREBY STIPULATED AND AGREED** by and between Plaintiff, DANIEL
2 PROVENCIO, JR., personally and as successor in interest to DANIEL PROVENCIO, deceased, by
3 his guardian ad litem, MARIA LUCERO, and all Defendants, past and present, by and through
4 their respective attorneys of record, as follows:

5 1. Plaintiff, DANIEL PROVENCIO, JR., personally and as successor in interest to
6 DANIEL PROVENCIO, deceased, by his guardian ad litem, MARIA LUCERO, is one of the
7 Plaintiffs in this action.

8 2. Plaintiff, DANIEL PROVENCIO, JR., personally and as successor in interest to
9 DANIEL PROVENCIO, deceased, by his guardian ad litem, MARIA LUCERO, wishes to dismiss
10 all claims in this action with prejudice and waive any rights to appeal.

11 3. The Defendants, through their counsel, agree to waive all fees and costs that they
12 may be entitled to seek from the Court against Plaintiff, DANIEL PROVENCIO, JR., personally
13 and as successor in interest to DANIEL PROVENCIO, deceased, by his guardian ad litem,
14 MARIA LUCERO, in exchange for the dismissal of all claims by Plaintiff DANIEL
15 PROVENCIO, JR., personally and as successor in interest to DANIEL PROVENCIO, deceased, by
16 his guardian ad litem, MARIA LUCERO.

17 4. The parties further stipulate that Defendants will waive any claim(s) that they may
18 have against Plaintiff DANIEL PROVENCIO, JR., personally and as successor in interest to
19 DANIEL PROVENCIO, deceased, by his guardian ad litem, MARIA LUCERO, for malicious
20 prosecution in exchange for the dismissal of all claims by Plaintiff DANIEL PROVENCIO, JR.,
21 personally and as successor in interest to DANIEL PROVENCIO, deceased, by his guardian ad
22 litem, MARIA LUCERO.

23 ///
24 ///
25 ///
26 ///
27 ///

28

1 **IT IS HEREBY STIPULATED AND AGREED THAT** all of the claims of Plaintiff
2 DANIEL PROVENCIO, JR., personally and as successor in interest to DANIEL PROVENCIO,
3 deceased, by his guardian ad litem, MARIA LUCERO, in the above-captioned action are hereby
4 dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a) (1).

5
6 Dated: October 5, 2010

MICHAEL R. MITCHELL, ESQ.

7
8 /s/ Michael R. Mitchell

MICHAEL R. MITCHELL, ESQ.
*Attorney for Plaintiff Daniel
Provencio, Jr. by His guardian ad
litem, Maria Lucero*

9
10
11
12 Dated: October 4, 2010

EDMUND G. BROWN
Attorney General of the State of California

13
14
15 By: /s/ Benjamin Barnouw

BENJAMIN BARNOUW
Deputy Attorney General
Attorneys for Defendants

16
17
18 Dated: October 4, 2010

LEBEAU – THELEN, LLP

19
20 By: /s/ J. Nile Kinney

J. NILE KINNEY
Attorney for Defendant
Matthew Adams

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS HEREBY ORDERED that the claims of Plaintiff DANIEL PROVENCIO, JR., personally and as successor in interest to DANIEL PROVENCIO, deceased, by his guardian ad litem, MARIA LUCERO, Eastern District of California case number 1:07-cv-0069 OWW-JLT, pursuant to the terms of the above stipulation, are hereby dismissed with prejudice pursuant to Federal Rules of Civil Procedure 41(a)(1).

Dated:

By: _____

Oliver W. Wanger
United States District Court Judge

IT IS SO ORDERED.

Dated: **October 7, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE