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Attorneys for Plaintiffs

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

11 MAUREEN ABSTON, individually, and as
 12 Personal Representative of the Estate of
 13 RICHARD ABSTON; COREY ABSTON;
 14 JACY ABSTON; LINDA ABSTON

Case No. 1:09-CV-00511 OWW GSA

15 **STIPULATION AND ORDER TO AMEND**
 16 **COMPLAINT**

17 Plaintiffs,

18 vs.

19 CITY OF MERCED, a municipal corporation;
 20 RUSS THOMAS, in his capacity as Sheriff for
 21 the CITY OF MERCED; J. HART, individually
 22 and in his capacity as a police officer for CITY
 23 OF MERCED; B. DALIA, individually, and in
 24 his capacity as a police officer for the CITY OF
 25 MERCED; N. ARELLANO, individually and
 26 her capacity as a police officer for the CITY OF
 27 MERCED; S. KENSEY, individually; and
 28 DOES 1-25, inclusive,

Defendants.

29 **STIPULATION**

30 WHEREAS the Court ruled on Defendants’ Motion for Judgment on the pleadings in the
 31 above-entitled action (see document no. 23 filed in the above-entitled action, Memorandum Decision
 32 Re: Defendants’ Motion for Judgment on the Pleadings”, hereinafter “Memorandum Decision”).

1 WHEREAS the Court's decision in its Memorandum Decision found that Plaintiffs' First
2 Cause of Action in their Complaint gave no notice that Plaintiffs alleged a violation of their own
3 Fourteenth Amendment substantive due process rights to familial companionship and society with the
4 Decedent, RICHARD ABSTON.
5

6 WHEREAS, the parties jointly stipulate that Plaintiffs may amend the First Cause of Action
7 in their Complaint to clarify the First Cause of Action to specifically set forth violations of each
8 Plaintiff's own Fourteenth Amendment substantive due process rights to familial companionship and
9 society with the Decedent, RICHARD ABSTON.
10

11 IT IS SO STIPULATED.
12

13
14 Dated: November 3, 2009

Respectfully submitted,

The Law Offices of John L. Burris

15
16 /s/ Benjamin Nisenbaum
17 Benjamin Nisenbaum
18 Attorney for Plaintiffs

19 Dated: November 3, 2009

Respectfully submitted,

20 EDMUND G. BROWN JR.
21 Attorney General of California
22 JAMES M. SCHIAVENZA
23 Senior Assistant Attorney General

24 /s/
25 STEVEN M. GEVERCER
26 Supervising Deputy Attorney General

27 *Attorneys for Defendant*
28 *Shane Kensey*

1 Dated: November 3, 2009

Respectfully submitted,

2 LOW BALL AND LYNCH

3
4 /s/
DALE L. ALLEN, JR.

5 *Attorneys for Defendants*
6 *City of Merced; Russ Thomas; J. Hart;*
7 *B. Dalia and N. Arellano*

8
9
10 **ORDER**

11 PURSUANT TO THE PARTIES' STIPULATIONS, Plaintiffs shall file a First Amended
12 Complaint amending the First Cause of Action to specifically set forth violations of each Plaintiff's
13 own Fourteenth Amendment substantive due process rights to familial companionship and society
14 with the Decedent, RICHARD ABSTON within 30 days from the issuance of this Order.
15

16 **IT IS SO ORDERED.**

17
18
19 Dated: November 18, 2009

/s/ OLIVER W. WANGER
Honorable Oliver W. Wanger
UNITED STATES DISTRICT JUDGE