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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ZONE SPORTS CENTER, LLC, et al.,

Case No. 1:11-cv-00622-SKO

Plaintiffs,

F.R.Civ.P 54(b) JUDGMENT

v.

BEN RODRIGUEZ,

Defendant.

_____ /

This Court's March 6, 2013 order ("March 6 order") (doc. 64) granted defendants' Brendan Rhames ("Rhames") and the City of Fresno (the "City") summary judgment and directed the clerk to enter judgment in favor of Rhames and the City and against remaining plaintiffs Fresno Rock Taco, LLC, Zone Sports Center, LLC, The Fine Irishman, LLC, and Heidi Barbis as guardian ad litem for minor Claire Barbis (collectively "plaintiffs"). On the same day, the clerk entered such judgment (doc. 65).

Due to an oversight, the March 6 order failed to direct entry of a final F.R.Civ.P. 54(b) judgment although summary judgment was granted on all claims against Rhames and the City and such claims are separate and distinct from the claims against remaining defendant Ben Rodriguez. The March 6 order disposed of the case and all claims by plaintiffs against Rhames and the City to free Rhames and the City from participation in further proceedings before this Court. The March 6 order granted Rhames and the City summary judgment in that plaintiffs Fresno Rock Taco, LLC

1 and The Fine Irishman, LLC are judicially estopped from asserting their claims in this action.

2 Entry of a F.R.Civ.P. 54(b) judgment will streamline the remainder of the litigation. The
3 question of whether entry of judgment will "streamline the ensuing litigation" is of particular
4 importance under F.R.Civ.P. 54(b). *Texaco, Inc. v. Ponsoldt*, 939 F.2d 794, 798 (9th Cir. 1991)
5 (even where remaining claims required proof of same facts, entry of judgment was appropriate
6 because the legal and factual issues were distinct); *Continental Airlines, Inc. v. Goodyear Tire &*
7 *Rubber Co.*, 819 F.2d 1519, 1525 (9th Cir. 1987) (approving court's decision to "carve out
8 threshold claims and thus streamline further litigation"); *Noel v. Hall*, 568, F.3d 743, 747 (9th Cir.
9 2009) (F.R.Civ.P. 54(b) judgment appropriate where an appellate court's ruling may free a party
10 from litigation and streamline later litigation).

11 Accordingly, this Court ENTERS this final F.R.Civ.P. 54(b) judgment, effective July 15,
12 2013, in favor of defendants Brendan Rhames and the City of Fresno and against plaintiffs Fresno
13 Rock Taco, LLC, Zone Sports Center, LCC, The Fine Irishman, LLC, and Heidi Barbis as
14 guardian ad litem for minor Claire Barbis in that there is no just reason to delay to enter such
15 judgment given that all of plaintiffs' claims against Rhames and the City and their alleged liability
16 are clear and distinct from claims against and liability of other defendant(s) and the entry of final
17 judgment will streamline the ensuing litigation. *See Fed. R. Civ. P. 54(b)*.

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21 IT IS SO ORDERED.

22 Dated: July 15, 2013

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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