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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

LUIS SANCHEZ, ANGELITA SOTO,  
GLORIA WILLIAMS, THERESA CALMER,  
JULIAN FERNANDEZ, MELISSA OHLER,  
and JOSHUA DEEN,

Plaintiffs,

vs.

CITY OF FRESNO, ASHLEY SWEARENGIN,  
MARK SCOTT, BRUCE RUDD, GREG  
BARFIELD, JERRY DYER, PHILLIP  
WEATHERS, MALCOLM DOUGHERTY,  
ANDREW HALL, GREGORY GARNER,  
RICHARD TUCKER, GLEN SCHAFER,

Case No.: 1:12-cv-00428-LJO-SKO  
And Related Consolidated Cases

**STIPULATION AND ORDER**

1 MARK VAN WYHE, JEFFREY LA BLUE,  
2 RITCHIE O'DELL, MARIO TOSCANO,  
3 TIMOTHY STEWART, JASON WATKINS,  
4 DAVID MIRAMONTES, BRYAN ANALLA,  
5 XAO HERR, DAVID GRAZIER, VUE YANG,  
6 JOHN SKAGGS, JAMES HILDEBRAND,  
7 KEITH DUTSON, RAUL BOMBARDLY,  
8 EDUARDO CASTANO, LUIS  
9 CASTELLANOS, JIM COPLAND, SU FANG,  
10 ERNIE FLORES, ROBERT GRAHAM,  
11 FRANCISCO GUEVARA, KEVIN HANSEN,  
12 TIM HAUSCHEL, LEO HEREDIA, MARTY  
13 HERRERA, PETER HOWE, ROBIN  
14 KELDSEN, JOHANAN KUDER., SCOTT  
15 MARTIN, RICK MENDIZABAL, LEONARD  
16 REYES, STEVEN REYES, and DOES 1-100,  
17 inclusive,

18  
19 Defendants.

20  
21 Plaintiffs and Defendants City of Fresno, Swearingin, Scott, Rudd, Barfield, Dyer and  
22 Weathers, by and through their respective counsel of record, hereby stipulate as follows:

- 23 1. The complaints previously filed against defendants by Angelita Soto, Gloria  
24 Williams, Julian Fernandez, Theresa Calmer, Melissa Ohler and Joshua Deen shall  
25 proceed pursuant to the allegations in this Second Amended Complaint, which shall  
26 be deemed to have been filed as of the date of their previously filed complaints, and,  
27 upon approval of this proposed stipulation by the Court, the previously filed  
28 complaints of each of these plaintiffs shall be voluntarily dismissed. The allegations  
that appear in Paragraphs 5 to 12 and 27 to 51 of the Second Amended Complaint,  
shall not be incorporated into the complaints by the other Plaintiffs.
2. Plaintiffs do not assert a claim for damages under their California Constitutional  
Claims, in accordance with this Court's December 26, 2012 Order.
3. In their Second Amended Complaint, plaintiffs do not assert a Fifth Amendment Due  
Process claim or a Fifth Amendment Takings claim.
4. Based upon this Stipulation, Defendants' currently filed Motion to Dismiss Second  
Amended Complaint shall be deemed withdrawn. Defendants may have 20 days

1 following the Court's approval of this stipulation and issuance of an Order thereon in  
2 which to file their Answer to the Second Amended Complaint.

- 3  
4 5. The parties request a scheduling conference to address procedural issues involving  
5 the naming of 37 additional Defendants in the Second Amended Complaint.

6 Dated: March 4, 2013

ARNOLD & PORTER LLP

7 By: /s/ Paul Alexander

8 Attorneys for Plaintiffs

9  
10  
11 BETTS, RUBIN & MCGUINNESS

12 By: /s/ James B. Betts

13 Attorneys for Defendants City of Fresno

14  
15 GEORGESON, BELARDINELLI & NOYES

16 By /s/ C. Russell Georgeson

17 Attorneys for Defendants Ashley Swearengin, Mark Scott,  
18 Bruce Rudd, Greg Barfield, Jerry Dyer and Phillip Weathers

19  
20 **ORDER**

21 **It is so ordered.**

22 **Dated: March 5, 2013**

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