

1 Kevin G. Little, SBN 149818  
**LAW OFFICE OF KEVIN G. LITTLE**  
 2 Post Office Box 8656  
 Fresno, California 93747  
 3 Telephone: (559) 342-5800  
 Facsimile: (559) 420-0839  
 4 Email: [kevin@kevingliddle.com](mailto:kevin@kevingliddle.com)  
 5 Attorney for Plaintiff Desiree Martinez

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 8 **IN THE UNITED STATES DISTRICT COURT**  
 9 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

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 11 DESIREE MARTINEZ,  
 12  
 Plaintiff,  
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 v.  
 14 KYLE PENNINGTON; KIM PENNINGTON;  
 15 CONNIE PENNINGTON; KRISTINA  
 HERSHBERGER; JESUS SANTILLAN;  
 16 CHANNON HIGH; THE CITY OF CLOVIS;  
 ANGELA YAMBUPAH; RALPH SALAZAR;  
 17 FRED SANDERS; THE CITY OF SANGER;  
 DOES 1-20,  
 18  
 Defendants.

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No. 1:15-CV-00683-JAM-MJS

STIPULATION AND ORDER RE:  
 CERTIFICATION OF THE COURT'S  
 JUNE 9, 2017 ORDER AND OCTOBER  
 17, 2017 SUMMARY JUDGMENT  
 RULINGS FOR PURPOSES OF  
 INTERLOCUTORY APPEAL

19  
 20 TO THE HONORABLE COURT:

21 WHEREAS the parties stipulated to dismiss defendants Jesus Santillan and Ralph Salazar with  
 22 prejudice on June 9, 2017 (Dkt. No. 70); and

23 WHEREAS on October 17, 2017, this Court granted summary judgment motions as to issues that  
 24 resulted in the dismissal of all claims against defendants Kristina Hershberger, Angela Yambupah, Fred  
 25 Sanders, the City of Clovis and the City of Sanger, and plaintiff's equal protection claim against defendant  
 26 Channon High; and  
 27

28 WHEREAS the Court's summary judgment ruling also dismissed the 42 U.S.C. § 1985(2) and

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STIPULATION AND PROPOSED ORDER RE: CERTIFICATION

1 negligence claims against defendants Kim and Connie Pennington; and

2 WHEREAS the Court's summary judgment ruling denied summary judgment as to defendant  
3 Channon High as to plaintiff's substantive due process claim, and also denied summary judgment as to  
4 plaintiffs claim against Kim and Connie Pennington alleging conspiracy to violate California Civil Code  
5 §§ 51.7, 52.4, 1708.5, 1708.6, and to also to commit battery; and  
6

7 WHEREAS the parties are uniform in their belief that there is no just reason for delaying the  
8 issuance of a partial judgment as to plaintiff's claims against any and all defendants, which would permit  
9 an immediate appeal by the affected parties to the United States Court of Appeals for the Ninth Circuit;  
10  
11 and

12 WHEREAS the parties are uniform in their belief that the best use of their and Court's resources  
13 would be for them to take immediate appeals of the aforementioned summary judgment rulings, instead  
14 of proceeding to a costly and somewhat lengthy trial on issues that could, depending on the outcome of  
15 an appeal, lead to unnecessarily multiplied and costly proceedings; and  
16

17 WHEREAS, the parties further believe that the appellate resolution of the summary judgment  
18 rulings could facilitate a settlement of this case, thereby potentially making even an single trial  
19 unnecessary.

20 THE PARTIES HEREBY stipulate that the Court's June 9, 2017 Order on the parties' stipulation  
21 and the Court's October 17, 2017 ruling may be certified for appeal pursuant to Federal Rule of Civil  
22 Procedure 54(b). Pursuant to the Court's November 3, 2017 Order (Dkt. No. 94), the Court has already  
23 ordered the preparation of partial judgments reflecting its rulings. A partial judgment was issued on  
24 November 21, 2017 (Dkt. No. 96) as to the summary judgment rulings pertaining to defendants  
25 Hershberger, High, Yambupah, Sanders, the City of Clovis and the City of Sanger, and the parties  
26  
27 intend for those rulings as well as all other summary judgment rulings to be immediately appealable  
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pursuant to Rule 54(b).

Because this stipulation in no way affects plaintiff's claims against defendant Kyle Pennington, who has filed for bankruptcy protection, he is not a party or signatory to this stipulation.

IT IS SO STIPULATED.

Dated: December 4, 2017

LAW OFFICE OF KEVIN G. LITTLE

/s/ Kevin G. Little  
Kevin G. Little  
Attorney for Plaintiff  
Desiree Martinez

Dated: December 4, 2017

FERGUSON, PRAET & SHERMAN

/s/ Shaun Abuzalaf  
Bruce Praet  
Shaun Abuzalaf  
Attorney for Defendants  
Kristina Hershberger, Channon High, Angela  
Yambupah, Fred Sanders, the City of Clovis  
and the City of Sanger

Dated: December 4, 2017

WILD, CARTER & TIPTON

/s/ John Phillips  
John Phillips  
Attorney for Defendants  
Kim and Connie Pennington

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Based on the above stipulation, the Court orders as follows:

The Court certifies its June 9, 2017 order on the parties' stipulation and its October 17, 2017 summary judgment ruling pursuant to Federal Rule of Civil Procedure 54(b), finding that there is no just cause for delay of the issuance of a partial judgment and permitting the affected parties to litigate an appeal thereof in the United States Court of Appeals for the Ninth Circuit.

Within ten (10) days of the date of this order, the affected parties are directed to submit an appropriate partial judgment that reflects all of the Court's decisions on the plaintiff's claims as to all affected parties and includes the required language of Rule 54(b).

IT IS SO ORDERED.

Date: 12/5/2017

/s/ John A. Mendez  
\_\_\_\_\_  
John A. Mendez  
United States District Court Judge