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15 Attorneys for: Defendants CITY OF BAKERSFIELD, OFFICER DANNI MELENDEZ,
16 OFFICER SANTOS LUEVANO, OFFICER NATHAN POTEETE, OFFICER
17 RYAN CLARK, and SERGEANT DANIEL McAFEE

18 UNITED STATES DISTRICT COURT
19 EASTERN DISTRICT OF CALIFORNIA

20 TIMOTHY GRISMORE, an individual;) Case No. 1:17-CV-00413-JLT
21 XAVIER HINES, an individual,)
22)
23 Plaintiffs,)
24 vs.) **STIPULATION DISMISSING CERTAIN**
25) **CLAIMS WITH PREJUDICE;**
26) **[PROPOSED] ORDER THEREON**
27) **(Doc. 59)**
28 CITY OF BAKERSFIELD, a municipality;)
OFFICER MELENDEZ, an individual;)
OFFICER LUEVANO, an individual;)
OFFICER POTEETE, an individual;)
OFFICER CLARK, an individual;)
OFFICER McAFEE, an individual;)
and DOES 1-10, inclusive,)
Defendants.)
_____)

29 **IT IS HEREBY STIPULATED**, by and between the parties hereto, by and through their
30 respective counsel of record, that the following all claims be dismissed in their entirety, with prejudice:

1 **STIPULATION**

2 The parties have met and conferred multiple times regarding their respective contemplated
3 dispositive motions in this matter. They have arrived at the following stipulation and proposed order, with
4 which they propose to compromise with respect to a number of issues raised. Specifically, the parties
5 stipulate that (and request that the Court enter an order confirming that):

6 1. Plaintiffs agree to dismiss all claims alleged against Defendant Sergeant Daniel McAfee
7 with prejudice;

8 2. Plaintiffs agree to dismiss their third cause of action for violation of the Fourteenth
9 Amendment Substantive Due Process claim against all Defendants with prejudice;

10 3. Plaintiffs agree to dismiss their fourth cause of action for violation Fourteenth Amendment
11 Equal Protection against Defendants Officer Nathan Poteete and Officer Ryan Clark with prejudice;

12 4. Plaintiffs agree to dismiss their fifth cause of action for violation of the First Amendment
13 Retaliation against Defendants Officer Ryan Clark and Officer Nathan Poteete with prejudice;

14 5. Plaintiffs agree to dismiss their seventh, eighth, and ninth causes of action for Municipal
15 Liability with prejudice; and

16 6. Plaintiffs agree to dismiss their tenth cause of action for violation of the Ralph Act against
17 Defendant Officer Ryan Clark and Nathan Poteete with prejudice;

18 7. Plaintiffs agree to dismiss their twelfth cause of action for Battery against Defendant
19 Officer Ryan Clark and Nathan Poteete with prejudice;

20 8. In return, Defendants agree to forego filing a pre-trial dispositive motion;

21 9. There is good cause to approve this stipulation because it will streamline the issues to be
22 tried and reduce the time and expense associated with dispositive motions.

23 10. The parties jointly request that the Court enter an order consistent with this stipulation.

24 Dated: September 13, 2018

THE LAW OFFICE OF THOMAS C. SEABAUGH

25 */s/ Thomas C. Seabaugh*

26 By: _____

27 Thomas C. Seabaugh,
28 Attorneys for Plaintiff

Dated: September 13, 2018

ALDERLAW PC

1
2 /s/ Neil Gehlawat

3 By: _____
4 Neil Gehlawat,
5 Attorneys for Plaintiff

6 Dated: Dated: September 13, 2018

MARDEROSIAN & COHEN

7
8 /s/ Michael G. Marderosian

9 By: _____
10 Michael G. Marderosian,
11 Attorneys for Defendants
12 above-named.

13 **PROPOSED ORDER**

14 The parties have stipulated to dismiss certain issues in lieu of dispositive motions as a means of
15 compromise. Good cause appearing, the Court adopts the parties' stipulation and **ORDERS:**

16 1. The following claims for relief in the Plaintiffs' Complaint are **DISMISSED WITH**
17 **PREJUDICE** with each side to bear its own fees and costs as to those claims:

- 18 (1) all claims alleged against Defendant Sergeant Daniel McAfee;
- 19 (2) Plaintiffs' third cause of action for violation of the Fourteenth Amendment Substantive Due
20 Process claim against all Defendants;
- 21 (3) Plaintiffs' fourth cause of action for violation Fourteenth Amendment Equal Protection
22 against Defendants Officer Nathan Poteete and Officer Ryan Clark;
- 23 (4) Plaintiffs' fifth cause of action for violation of the First Amendment Retaliation against
24 Defendants Officer Ryan Clark and Officer Nathan Poteete;
- 25 (5) Plaintiffs' seventh, eighth, and ninth causes of action for Municipal Liability;
- 26 (6) Plaintiffs tenth cause of action for violation of the Ralph Act against Defendant Officer
27 Ryan Clark and Nathan Poteete; and
- 28 (7) Plaintiffs' twelfth cause of action for Battery against Defendant Officer Ryan Clark and
Nathan Poteete;

1 2. Defendants will forego filing a pre-trial dispositive motion as to the remaining causes of
2 action.

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4 IT IS SO ORDERED.

5 Dated: September 13, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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