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[Filing fee exempt
Gov. Code § 6103]

6 Attorneys for Defendant,
KERN HIGH SCHOOL DISTRICT
7

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT

10 * * *

11 LM, a minor, by and through his Guardian ad
Litem, GRISELDA MARTIN,

12 Plaintiff,

14 vs.

15 KERN HIGH SCHOOL DISTRICT, and
16 DOES 1 to 100, Inclusive,

17 Defendants.

CASE NO. 1:17-CV-01123-DAD-JLT

**STIPULATION AND ORDER RE
INSPECTION OF PLAINTIFF’S HOME
AND CLASSROOM
(Doc. 26)**

18 The parties in the above-captioned matter, Plaintiff, LM, by and through his Guardian as Litem,
19 GRISELDA MARTIN (“Plaintiff”), by and through his attorneys of record, J. Miguel Flores of
20 Rodriguez & Associates, and Defendant KERN HIGH SCHOOL DISTRICT (“Defendant”) (Plaintiff
21 and Defendant are collectively referred to as the “Parties”), by and through its attorneys of record,
22 Daniel T. Clifford and Dennis P. Gallagher, II, of Clifford & Brown, P.C., hereby enter into this
23 Stipulation to Re Inspection of Plaintiff’s Home and Classroom, as follows:

24 **RECITALS**

25 WHEREAS, on or about June 22, 2018, Defendant served Plaintiff with a Demand for
26 Permission to Enter on Property for Inspection and for Testing and/or Sampling (the “Home
27 Inspection”), whereby Defendant seeks to inspect the home of Plaintiff in support of its defense against
28

1 Plaintiff's claims in the above-captioned action;

2 WHEREAS, Plaintiff has objected to the Home Inspection and requested inspection of his home
3 by Defendant and has refused to allow any inspection to occur;

4 WHEREAS, prior to August 16, 2018, the Parties met and conferred, but reached an impasse;

5 WHEREAS, on August 16, 2018, the Parties engaged in a teleconference with Federal
6 Magistrate Thurston regarding the Demand and Plaintiff's objections thereto;

7 WHEREAS, on August 16, 2018, the Court issued a minute order holding that counsel for the
8 Parties preliminarily agreed that Defendant may inspect Plaintiff's home and ordering counsel to
9 further meet and confer regarding the terms of the same;

10 WHEREAS, Plaintiff has also stated a desire to inspect his classroom as of the date of the
11 Incident underlying his First Amended Complaint (the "Classroom Inspection");

12 WHEREAS, the Parties have agreed to terms regarding the Home Inspection and Classroom
13 Inspection, as set forth in the following Stipulation.

14 **STIPULATION**

15 **IT IS HEREBY STIPULATED** that Defendant shall be permitted to inspect the home of
16 Plaintiff, located at 6119 Cartagena, Bakersfield, CA, 93313, on September 18, 2018, beginning at 1:00
17 p.m.;

18 **IT IS FURTHER STIPULATED** that the inspection of Plaintiff's home shall be limited to
19 three hours from the time of commencement;

20 **IT IS FURTHER STIPULATED** that the inspection of Plaintiff's home shall be limited to the
21 first floor of the home, including but not limited to Plaintiff's bedroom, bathrooms, common areas,
22 kitchen and hallways, as well as the home's curtilage, including but not limited to the front yard,
23 backyard, side yard(s), patio, porch and walkways;

24 **IT IS FURTHER STIPULATED** that attendees of the home inspection shall be limited to
25 Plaintiff, members of his family that reside in the home, Plaintiff's counsel, Defendant's counsel,
26 Plaintiff's expert(s), Defendant's expert(s) and people necessary to document Plaintiff's home,
27 including but not limited to photographers and videographers, during the inspection;

28 **IT IS FURTHER STIPULATED** that, pursuant to the Demand, Defendant's shall be

1 permitted to inspect, measure, survey, photograph and/or videotape the inspection as Defendant deems
2 appropriate, within the confines set forth in this Stipulation;

3 **IT IS FURTHER STIPULATED** that Plaintiff shall be permitted to inspect the classroom of
4 Plaintiff as of the date of the Incident, further identified as the moderate/severe special education
5 classroom at Mira Monte High School, located at 8520 S Fairfax Rd, Bakersfield, CA, 93307, on
6 September 18, 2018, beginning after the inspection of Plaintiff's home and no earlier than 4:00 p.m.
7 for purposes of student privacy;

8 **IT IS FURTHER STIPULATED** that the inspection of Plaintiff's classroom shall be limited
9 to three hours from the time of commencement;

10 **IT IS FURTHER STIPULATED** that the inspection of Plaintiff's classroom shall be limited
11 to the inside of the classroom and immediate surrounding walkways;

12 **IT IS FURTHER STIPULATED** that no students, whether personally or by some form of
13 identification, will be photographed, videotaped, or documented in any way for privacy reasons.
14 Should, following the inspection, any students be found to be depicted or identifiable in any manner,
15 such identification will immediately be redacted from the original document and any copies;

16 **IT IS FURTHER STIPULATED** that attendees of the classroom inspection shall be limited
17 Plaintiff's counsel, Defendant's counsel, Plaintiff's expert(s), Defendant's expert(s), KHSD/Mira
18 Monte High School administration and staff as deemed appropriate by Defendant's counsel, and people
19 necessary to document the classroom, including but not limited photographers and videographers,
20 during the inspection;

21 **IT IS FURTHER STIPULATED** that this stipulation may be signed in counterparts.
22

23 DATED: August 30, 2018

CLIFFORD & BROWN

24
25 By /s/ Dennis P. Gallagher, II
26 DANIEL T. CLIFFORD, ESQ.
27 DENNIS P. GALLAGHER, II, ESQ.
28 Attorneys for Defendant,
KERN HIGH SCHOOL DISTRICT

1 DATED: August 30, 2018

RODRIGUEZ & ASSOCIATES

2
3 By /s/ J. Miguel Flores
4 DANIEL RODRIGUEZ, ESQ.
5 J. MIGUEL FLORES, ESQ.
6 Attorneys for Plaintiff,
7 L.M., by and through his Guardian ad Litem,
8 Griselda Martin
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ORDER

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2 In light of the foregoing Stipulation to Permit Inspection of Plaintiff’s Home, and good cause
3 appearing therefore,

4 **IT IS HEREBY ORDERED** that Defendant shall be permitted to inspect the home of Plaintiff,
5 located at 6119 Cartagena, Bakersfield, CA, 93313, on September 18, 2018, beginning at 1:00 p.m.;

6 **IT IS FURTHER ORDERED** that the inspection of Plaintiff’s home shall be limited to three
7 hours from the time of commencement;

8 **IT IS FURTHER ORDERED** that the inspection of Defendant shall be limited to the first
9 floor of Plaintiff’s home, including but not limited to Plaintiff’s bedroom, bathrooms, common areas,
10 kitchen and hallways, as well as the home’s curtilage, including but not limited to the front yard,
11 backyard, side yard(s), patio, porch and walkways;

12 **IT IS FURTHER ORDERED** that attendees of the home inspection shall be limited to
13 Plaintiff, members of his family that reside in the home, Plaintiff’s counsel, Defendant’s counsel,
14 Plaintiff’s expert(s), Defendant’s expert(s) and people necessary to document Plaintiff’s home,
15 including but not limited photographers and videographers, during the inspection;

16 **IT IS FURTHER ORDERED** that, pursuant to the Demand, Defendant’s shall be permitted
17 to inspect, measure, survey, photograph and/or videotape the inspection as Defendant deems
18 appropriate, within the confines set forth in this Stipulation.

19 **IT IS FURTHER ORDERED** that Plaintiff shall be permitted to inspect the classroom of
20 Plaintiff as of the date of the Incident, further identified as the moderate/severe special education
21 classroom at Mira Monte High School, located at 8520 S Fairfax Rd, Bakersfield, CA, 93307, on
22 September 18, 2018, beginning after the inspection of Plaintiff’s home and no earlier than 4:00 p.m.
23 for purposes of student privacy;

24 **IT IS FURTHER ORDERED** that the inspection of Plaintiff’s classroom shall be limited to
25 three hours from the time of commencement;

26 **IT IS FURTHER ORDERED** that the inspection of Plaintiff’s classroom shall be limited to
27 the inside of the classroom and immediate surrounding walkways;

28 **IT IS FURTHER ORDERED** that no students, whether personally or by some form of

1 identification, will be photographed, videotaped, or documented in any way for privacy reasons.
2 Should, following the inspection, any students be found to be depicted or identifiable in any manner,
3 such identification will immediately be redacted from the original document and any copies;

4 **IT IS FURTHER ORDERED** that attendees of the classroom inspection shall be limited
5 Plaintiff's counsel, Defendant's counsel, Plaintiff's expert(s), Defendant's expert(s), KHSD/Mira
6 Monte High School administration and staff as deemed appropriate by Defendant's counsel, and people
7 necessary to document the classroom, including but not limited photographers and videographers,
8 during the inspection.

9
10 IT IS SO ORDERED.

11 Dated: August 31, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE