

ROBERT R. POWELL, SBN: 159747  
POWELL & ASSOCIATES  
925 West Hedding Street  
San Jose, California 95126  
T: (408) 553-0201 F: (408) 553-0203  
E: [rpowell@rrpassociates.com](mailto:rpowell@rrpassociates.com)

Attorney for Plaintiffs

BRADLEY J. SWINGLE, SBN: 171535  
ARATA, SWINGLE, VAN EGMOND & HEITLINGER  
A Professional Law Corporation  
1207 I Street  
Post Office Box 3287  
Modesto, California, 95353  
T: (209) 522-2211 F: (209) 522-2980  
E: [bswingle@arata-law.com](mailto:bswingle@arata-law.com)

## Attorneys for Defendants

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JEREMY WESTFALL, et al.

Case No. 1:21-cv-00283-DAD-SKO

Plaintiffs,

VS.

STIPULATION TO FILE SECOND  
AMENDED COMPLAINT; ORDER

**COUNTY OF STANISLAUS, et al,**

## Defendants.

Based on the following recitals and Stipulation of the parties related to said recitals, the parties hereto, by and by and through their counsel, do hereby agree and stipulate as set forth below, and respectfully request this Court order same:

11

## RECITALS

WHEREAS, on February 27, 2021, Plaintiffs filed their First Amended Complaint for Violation of Civil Rights (“FAC”) in this Court. [Dkt. 7] Plaintiffs named a Defendant Jorge Contreras as a County of Stanislaus Social Worker Defendant therein.

WHEREAS, on June 10, 2021, a Waiver of the Service of Summons (AO 399) was filed for each of the individually named Defendants except Jorge Contreras. [Dkt. 8]

WHEREAS, on July 20, 2021, an answer was filed on behalf of Defendant County of Stanislaus and each of the individually named Defendants except Jorge Contreras. [Dkt. 10]

WHEREAS, on September 22, 2021, the Court continued the scheduling conference in this matter, indicating that all parties had not yet appeared and no proof of service of the FAC on Defendant Jorge Contreras. The Court requested a proof of service or status report be filed by November 15, 2021. [Dkt. 12]

WHEREAS, following further review and investigation, Plaintiffs have confirmed that Jorge Contreras is a misnomer. Plaintiffs intend to prosecute this case against Defendant Oscar Contreras.

WHEREAS, Defendants' counsel have confirmed that they will be representing Defendant Oscar Contreras in this matter.

WHEREAS, the parties have agreed the following in an effort to minimize cost and effort to all parties and the Court: service of Defendant Contreras shall be deemed at time of filing the Second Amended Complaint; the Answer previously filed at ECF No. 10 shall also apply to the Second Amended Complaint for all Defendants; and, no further answer is required.

## STIPULATION

1. The parties, by and through the signatories to this Stipulation as indicated below, do hereby stipulate and agree that Plaintiffs may file a Second Amended Complaint in this matter.

1       2. Changes found in Plaintiff's Second Amended Complaint shall be limited to the  
2        correction of all references to Defendant Jorge Contreras to Defendant Oscar Contreras.  
3       3. Arata, Swingle, Van Egmond & Heitlinger will be the attorney of record for Defendant  
4        Oscar Contreras. Mr. Contreras shall be deemed served by the ECF filing of the Amended  
5        Complaint.  
6       4. The Court shall issue an Amended Summons naming Defendant Oscar Contreras.  
7       5. The Answer previously filed at ECF No. 10 shall also apply to the second amended  
      complaint for all Defendants. No further answer is required.  
8

9       **IT IS SO STIPULATED.**

10      /S/ Bradley J. Swingle 11/15/21  
11      BRADLEY J. SWINGLE, ESQ.  
12      ATTORNEY FOR DEFENDANTS

/S/ Robert R. Powell 11/15/21  
      ROBERT R. POWELL, ESQ.  
      ATTORNEY FOR PLAINTIFF

13       **ORDER**

14       Pursuant to the foregoing stipulation of the parties (Doc. 17), and for good cause shown  
(*see* Fed. R. Civ. P. 15(a)(2)), IT IS HEREBY ORDERED that:

15       1. Plaintiffs may file a Second Amended Complaint in this matter;  
16       2. Changes found in Plaintiff's Second Amended Complaint shall be limited to the  
17        correction of all references to Defendant Jorge Contreras to Defendant Oscar Contreras;  
18       3. Arata, Swingle, Van Egmond & Heitlinger will be the attorney of record for Defendant  
19        Oscar Contreras. Mr. Contreras shall be deemed served by the ECF filing of the Amended  
20        Complaint;  
21       4. The Court shall issue an Amended Summons naming Defendant Oscar Contreras; and  
22       5. The Answer previously filed at Doc. 10 shall also apply to the second amended complaint  
23        for all Defendants. No further answer is required.

24       IT IS SO ORDERED.

25       Dated: November 16, 2021

/s/ Sheila K. Oberto

UNITED STATES MAGISTRATE JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25