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Pro Se Plaintiff
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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION
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16 **SHELA BARKER,**

17 Plaintiff,

18 v.
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20 **STATE OF CALIFORNIA;**
DEPARTMENT OF CONSUMER
21 **AFFAIRS, a Public Entity; DONALD**
22 **CHANG, AND ANITA SCURI, as**
Individual Defendants; and DOES 1-25,
23 **inclusive,**

24 Defendants.
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Case No. 2:15-CV-01321-TLN-KJN PS

**STIPULATION TO REMAND AND
ORDER**

1 (d) Plaintiff's prayer for punitive damages against Chang and Scuri.

2 4. The parties agree and stipulate that after dismissal of Plaintiff's federal cause of
3 action for denial or interference with rights in violation of the Family Medical Leave Act (26
4 U.S.C. §2617(a)), this court will no longer have subject matter jurisdiction over Plaintiff's civil
5 action.

6 5. The parties agree and stipulate that upon entry of the dismissals as detailed in
7 Paragraph 3, above, this matter is to be remanded to the Sacramento County Superior Court,
8 pursuant to 28 U.S.C. §1447(c), alleging the following remaining causes of action: (1) Disability
9 discrimination in violation of the Fair Employment and Housing Act, Cal. Gov. Code §12940 *et*
10 *seq.* ("FEHA"); (2) Failure to engage in the good faith interactive process in violation of FEHA ;
11 (3) Hostile work environment in violation of FEHA; (4) Retaliation in violation of FEHA; (5)
12 Failure to prevent discrimination and harassment in violation of FEHA; and (6) Unlawful denial
13 or interference with rights under the California Family Rights Act, Cal. Gov. Code §12945.2.

14 6. The parties agree and stipulate that upon remand of this action to the Sacramento
15 County Superior Court, Plaintiff will not amend her remaining causes of action, or add further
16 causes of action or defendants.

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1 7. The parties agree and stipulate that all pending deadlines, if any, in this case should
2 be taken off the Court's calendar.

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4 Dated: January 28, 2016

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FIEL D. TIGNO
Supervising Deputy Attorney General

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8 /s/ Courtney S. Lui
9 COURTNEY S. LUI
10 Deputy Attorney General
11 Attorneys for Defendant California
12 Department of Consumer Affairs

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14 Dated: January 28, 2016

Respectfully submitted,

15 /s/ Shela Barker
16 SHELA BARKER
17 Pro Se Plaintiff

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1 **ORDER**

2 After carefully reviewing the parties' stipulation and the applicable law, IT IS HEREBY
3 ORDERED THAT:

4 1. The parties' stipulation to remand the action to state court is approved.¹

5 2. The following causes of action, individually-named defendants, and prayer for relief,
6 are DISMISSED WITH PREJUDICE:

7 (a) Plaintiff's federal cause of action for denial or interference with rights in
8 violation of the Family Medical Leave Act (FMLA), 26 U.S.C. §2617(a);

9 (b) Plaintiff's state law cause of action for Intentional Infliction of Emotional
10 Distress;

11 (c) The individually-named defendants Donald Chang ("Chang") and Anita Scuri
12 ("Scuri");² and

13 (d) Plaintiff's prayer for punitive damages against Chang and Scuri.

14 3. Upon entry of the dismissals as detailed in Paragraph 2, above, Eastern District of
15 California case number 2:15-CV-01321-TLN-KJN, *Shela Barker v. State of California, et al.*,
16 shall be REMANDED to the Superior Court of California, County of Sacramento.

17 4. The Clerk of Court shall serve a certified copy of this order on the Clerk of the
18 Sacramento County Superior Court, and shall include the original state court case number in the
19 proof of service.

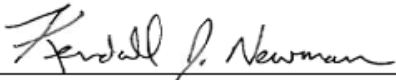
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21 ¹ The court disapproves that portion of the parties' stipulation which indicates that, after
22 dismissal of plaintiff's sole federal FMLA claim, the court would no longer have subject matter
23 jurisdiction. Subject matter jurisdiction "must be analyzed on the basis of the pleadings filed at
24 the time of removal without reference to subsequent amendments." Sparta Surgical Corp. v. Nat'l
25 Assoc. of Securities Dealers, Inc., 159 F.3d 1209, 1213 (9th Cir. 1998). Thus, the dismissal of
26 plaintiff's FMLA claim does not compel remand of the action to state court. Nonetheless, as the
27 court foreshadowed at the status conference, in light of the dismissal of plaintiff's sole federal
28 claim at this early stage of the litigation, the court finds it appropriate to decline to exercise
supplemental jurisdiction over plaintiff's remaining state law claims. Therefore, the court
approves the parties' stipulation to remand the action to state court.

² In an order dated December 4, 2015, the State of California was also dismissed without
prejudice on the terms outlined in that order. As such, on remand, the only remaining defendant
is the California Department of Consumer Affairs.

1 5. The Clerk of Court shall vacate all dates and deadlines in this court, and close this
2 case.

3 IT IS SO ORDERED.

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5 Dated: January 29, 2016

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8 KENDALL J. NEWMAN
9 UNITED STATES MAGISTRATE JUDGE
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