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15 ROMERO-CANO, COLIN EATON, JORDON PATZER,
STEVEN DARDEN, AND KYLE WYLIE

16 **UNITED STATES DISTRICT COURT**
17 **EASTERN DISTRICT OF CALIFORNIA**

19 KORI MCCOY, etc., et al.,
20
21 Plaintiffs,
22 v.
23 CITY OF VALLEJO, etc., et al.,
24 Defendants.

CASE NO.: 2:19-cv-01191-JAM-CKD

**STIPULATION AND ORDER ON DISMISSAL
OF MARQUITA MCCOY'S STATE LAW
CLAIMS BROUGHT IN HER INDIVIDUAL
CAPACITY**

Complaint Filed: June 27, 2019
SAC Filed: March 26, 2021
Trial Date: August 29, 2022

1 IT IS HEREBY STIPULATED by and between Plaintiffs Kori McCoy, Marc McCoy, Louis
2 McCoy, Shawnmell Mitchell, Marquita McCoy, and Barbara Dorsey (“Plaintiffs”) and Defendants
3 City of Vallejo, Andrew Bidou, Greg Nyhoff, Mark Thompson, Bryan Glick, Anthony Romero-
4 Cano, Colin Eaton, Jordon Patzer, Steven Darden, Kyle Wylie and Ryan McMahon (“Defendants”¹),
5 referred to collectively as the “Parties,” by and through their designated counsel, that:

6 WHEREAS, on April 21, 2021, the Parties held a meet and confer in compliance with section
7 III of the Order re Filing Requirements, ECF No. 4-2, in anticipation of Defendants moving under
8 Rule 12(b) to dismiss various causes of action pleaded in Plaintiffs’ Second Amended Complaint’s
9 (“SAC”) for their failure to state a claim.

10 WHEREAS, the Parties agreed during that meet and confer that Plaintiff Marquita McCoy
11 cannot pursue state law claims brought in her individual capacity for money or damages for failure
12 present a timely government claim for damage within six months of the Willie McCoy’s death and
13 the limitations period has lapsed. Cal. Gov. Code, §§ 905, 905.2, 954.4. Nor can Ms. McCoy rely on
14 her siblings’ claims as their injuries are distinct from hers. *Nguyen v. Los Angeles County*
15 *Harbor/UCLA Medical Center*, 8 Cal.App.4th 729, 733–734 (1992); e.g., *Castaneda v. Department*
16 *of Corrections & Rehabilitation*, 212 Cal.App.4th 1051, 1063 (2013).

17 WHEREAS, the Parties agreed that Plaintiff Marquita McCoy would voluntarily dismiss
18 with prejudice her state law claims for wrongful death, under the Bane Act (Cal. Civ. Code, § 52.1),
19 battery, conspiracy, and supervisory liability that are found in the SAC’s Fourth through Eighth
20 Causes Action and will not further pursue these or any other state law claim for money or damages
21 on her own behalf, except those sought as a successor-interest to decedent Willie McCoy.

22 NOW THEREFORE, the Parties, through their undersigned counsel below, hereby stipulate
23 and agree:

- 24 1. Plaintiff Marquita McCoy’s state law claims for wrongful death, Bane Act violations (Cal.
25 Civ. Code, § 52.1), battery, conspiracy, and supervisory liability, which are brought in her
26 individual capacity, under the Fourth through Eighth Cause of Action in Plaintiffs’ Second
27 Amended Complaint are dismissed with prejudice.

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¹ Defendant Ryan McMahon is represented separately by the law firm Angelo, Killday and Kilduff.

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DATED: April 23, 2021

/s/ Andrew C. Rawcliffe
ANDREW C. RAWCLIFFE
Attorneys for Defendants
City of Vallejo, Andrew Bidou, Greg Nyhoff,
Mark Thompson, Bryan Glick, Anthony
Romero-Cano, Colin Eaton, Jordon Patzer,
Steven Darden, and Kyle Wylie

DATED: April 23, 2021

/s/ Derick E. Konz
DERICK E. KONZ
Attorneys for Defendant Ryan McMahon

DATED: April 23, 2021

/s/ Patrick M. Buelna
PATRICK M. BUELNA
Attorneys for Plaintiffs

IT IS SO ORDERED.

DATED: April 26, 2021

/s/ John A. Mendez
THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE