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 27 and JESUS CANAS

28 UNITED STATE DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

ERIKA CANAS, JOSE CANAS, a minor, by
 and through his guardian ad litem, and JESUS
 CANAS, by and through his guardian ad litem,

Plaintiffs,

vs.

CITY OF SUNNYVALE, CHRIS SEARLE,
 DARREN PANG and DOES ONE through
 TWENTY-FIVE,

Defendants.

Case No.: C08-05771 TEH

**STIPULATION OF DISMISSAL WITH
 PREJUDICE OF THE ENIRE ACTION ;
 [Proposed] ORDER
 FRCP 41(a)(1)A(ii)**

1 THE PARTIES HERETO, THROUGH COUNSEL, STIPULATE AS FOLLOWS:

2 Judgment was entered in favor of Defendants City of Sunnyvale, Chris Searle and
3 Darren Pang and against Plaintiffs on October 2, 2012, after trial by Jury in which the
4 jury's verdict was unanimous and in favor of Defendants City of Sunnyvale, Chris Searle
5 and Darren Pang and against Plaintiffs. Defendants filed their bill of costs on October 16,
6 2012, and Plaintiffs filed their objections thereto on October 30, 2012. Defendants have
7 agreed to waive their cost bill in return for Plaintiffs' dismissal with prejudice of the entire
8 action and waiver of any appeal, each side to bear their own fees and costs. The parties
9 further agree to dismiss and waive any and all claims arising from the lawsuit.
10

11 The parties therefore agree and stipulate for an Order of Dismissal of the Entire
12 Action with Prejudice as to all parties and all causes of action, and a waiver by plaintiffs of
13 any and all appeals. Defendants will waive their cost bill. Each side to bear its own fees
14 and costs.

15 The parties further agree to release each other from all claims arising out of or
16 related in any way to the death of Jose Francisco Canas on September 12, 2007. Each
17 party understands and waives all rights or benefits under the terms of Section 1542 of the
18 Civil Code of the State of California, or any successor of statute thereto, which reads as
19 follows:
20

21 "A general release does not extend to the claims which the creditor does not know
22 or suspect to exist in his favor at the time of executing the release, which if known
23 by him must have materially affected his settlement with the debtor."

24 Plaintiffs hereby surrender and relinquish all post-trial remedies and rights available
25 to them, including but not limited to right of appeal. Defendants hereby surrender and
26 relinquish all post-trial remedies and rights available to them, including but not limited to
27 right to seek costs.
28

1 Each side shall bear its own costs and fees.

2
3 Date: November 1, 2012

/s/ Russell A. Robinson

4 By: Russell A. Robinson

5 Co-Counsel for Plaintiffs

6 ERIKA CANAS, minor JOSE CANAS, and minor
7 JESUS CANAS

8 Date: November 1, 2012

/s/ Gregory M. Fox

9 By: Gregory M. Fox

10 Counsel for Defendants

11 DARREN PANG, CHRISTOPHER SEARLE, and
12 CITY OF SUNNYVALE

13 **ORDER**

14 Pursuant to stipulation and good cause appearing, it is hereby ordered as follows:

15 This matter shall be and is hereby dismissed with prejudice, as to all parties and all
16 causes of action.

17 The parties are released from all claims arising out of or related in any way to the
18 death of Jose Francisco Canas on September 12, 2007.

19 Plaintiffs waive and shall not appeal the Judgment entered October 2, 2012 and any
20 other order of the court including the Order Granting in Part and Denying in Part Summary
21 Judgment. Defendants waive their costs of suit. Each side shall bear its own costs and
22 fees.

23 **IT IS SO ORDERED.**

24 Date: November 5, 2012

