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VICENTE T. OBICO

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 VICENTE T. OBICO, and individual,
14 Plaintiff,

15 v.

16 MISSION CREEK SENIOR
COMMUNITY/MERCY HOUSING, a
17 corporation, and DOES 1 through 10,
inclusive.

18 Defendant.
19

Case No. 3:11-cv-03932 JSW

**STIPULATION AND ORDER RE FILING
FIRST AMENDED COMPLAINT
~~PROPOSED~~
AND TERMINATING MOTION TO
DISMISS (Docket No. 22)**

20 Plaintiff VICENTE T. OBICO (hereinafter "Plaintiff") by his attorneys, Clyde & Co US LLP,
21 and Defendant MISSION CREEK SENIOR COMMUNITY/MERCY HOUSING (hereinafter
22 "Defendant"), by and through its attorneys, Simpson, Garrity, Innes & Jacuzzi, hereby agree and
23 stipulate as follows:

24 WHEREAS, Plaintiff, acting in pro per, filed his original Complaint in this Court on August 8,
25 2011, alleging violations of Title VII of the Civil Rights Act and the Age Discrimination in
26 Employment Act; and

27 WHEREAS, Defendant filed a Motion to Dismiss Plaintiff's Complaint on the grounds that (1)
28 Plaintiff had failed to serve the Complaint in the time required by Rule 4(m) of the Federal Rules of

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1 Civil Procedure; and (2) as a matter of law, individual employees cannot be sued under the ADEA and
2 Title VII of the Civil Rights Act; and

3 WHEREAS, Plaintiff requested that this Court give him additional time to permit him to retain
4 counsel to prosecute this action and oppose defendants' motion; and

5 WHEREAS, this Court issued a 45-day stay of all proceedings on February 22, 2012, which
6 stay was lifted on April 6, 2012; and

7 WHEREAS, Plaintiff has retained Clyde & Co US LLP to prosecute this action; and

8 WHEREAS, Plaintiff wishes to bring claims based on California law in addition to his claims
9 based on federal law and to withdraw his claims against the individual defendant, Jose Vega, from this
10 action,

11 IT IS HEREBY STIPULATED as follows:

12 1. Defendant shall withdraw its Motion to Dismiss Plaintiff's Complaint for Failure to
13 State a Claim and Insufficient Service of Process, filed on January 10, 2012;

14 2. Plaintiff shall file the First Amended Complaint, attached hereto as Exhibit A,
15 within two days of the filing of this Court's Order re Filing First Amended Complaint; and

16 3. Defendant shall file a response to the First Amended Complaint within 20 days of
17 plaintiff's filing of the First Amended Complaint.

18 IT IS SO STIPULATED.

19 Dated: April 7, 2012

CLYDE & CO US LLP

20
21 By: 

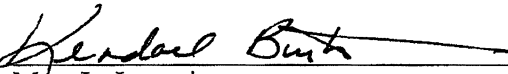
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Dated: April 17, 2012

SIMPSON, GARRITY, INNES & JACUZZI

By: 
Marc L. Jacuzzi
Kendall M. Burton
Marina C. Gruber
Attorneys for Defendants
MERCY HOUSING, INC. and JOSE VEGA

ORDER ~~[PROPOSED]~~


Pursuant to the foregoing stipulation of counsel,

IT IS HEREBY ORDERED as follows:

1. Defendant's Motion to Dismiss Plaintiff's Complaint for Failure to State a Claim and Insufficient Service of Process, filed on January 10, 2012, is hereby withdrawn; attached to Docket No. 30 as Exhibit A
2. Plaintiff shall file his First Amended Complaint, ~~attached hereto as Exhibit A,~~ within two days of the filing of this Order; and
3. Defendant shall file a response to the First Amended Complaint within 20 days of plaintiff's filing of the First Amended Complaint.

IT IS SO ORDERED.

DATED: April 18, 2012


HON. JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE