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15 MINTER; IMANI MINTER; JAYSHON HOPKINS; AHMIK  
16 HOPKINS-MINTER

16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA

19 RHONDA MINTER GUARDIAN AD  
20 LITEM FOR ISAAH MINTER; IMANI  
21 MINTER; JAYSHON BROOKS; AHMIK  
22 HOPKINS-MINTER ARI; ZION  
23 HOPKINS-MINTER,

22 Plaintiff,

23 vs.

24 CITY OF SAN PABLO; POLICE  
25 OFFICER MARK EDWARD GALIOS;  
26 DOES 1 through X,

26 Defendant.

Case No. C12-02905 JSC

**STIPULATION AND PROPOSED ORDER  
GRANTING PLAINTIFFS LEAVE TO  
FILE SECOND AMENDED COMPLAINT**

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1 **TO THE HONORABLE COURT:**

2 **WHEREAS**, Defendants previously filed a Rule 12 motion to dismiss Plaintiffs'  
3 Complaint which was granted by the Court on October 26, 2012, with leave to amend;

4 **WHEREAS**, Plaintiffs have timely filed a First Amended Complaint;

5 **WHEREAS**, Defendants contend that the First Amended Complaint is still deficient  
6 because it includes claims that are barred as a matter of law, including state law claims  
7 (negligence) on behalf of the minor Plaintiffs that are barred by California Government Code §§  
8 945.4 and 950.2, as well as non-viable 42 U.S.C. § 1983 federal claims for alleged excessive  
9 force under the 5<sup>th</sup> and 14<sup>th</sup> Amendment in the Second Cause of Action, by the minor Plaintiffs on  
10 behalf of the Decedent as his successor in interest;  
11

12 **WHEREAS**, Defense counsel contacted Plaintiffs' counsel in a good faith attempt to  
13 meet and confer on the deficient claims. Plaintiffs' counsel has agreed to strike the negligence  
14 state law claim (paragraphs 26 through 30) in its entirety, as well as the claims for excessive force  
15 in violation of the 5<sup>th</sup> and 14<sup>th</sup> Amendment under (42 U.S.C. § 1983), specifically as stated in  
16 paragraph 17 of Plaintiffs' First Amended Complaint;  
17

18 **WHEREAS**, the parties have agreed in the interest of judicial economy to stipulate to  
19 grant leave to the Plaintiffs to file a Second Amended Complaint without the deficient claims, in  
20 lieu of Defendants having to file another Rule 12 motion to dismiss that claim;  
21

22 **NOW THEREFORE** the parties hereby agree and stipulate to allow Plaintiffs to file a  
23 Second Amended Complaint without the state law negligence claim and without the claims for  
24 excessive force in violation of the 5<sup>th</sup> and 14<sup>th</sup> Amendment under (42 U.S.C. § 1983), as currently  
25 plead in Plaintiffs' First Amended Complaint (paragraphs 17, 26 through 30).  
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27 **SO STIPULATED.**

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Dated: December 6, 2012

LAW OFFICES OF EDI M. O. FAAL

By:           /s/ Renee L. Campbell            
Renée L. Campbell  
Attorney for Plaintiffs

Dated: December 6, 2012

MC NAMARA, NEY, BEATTY, SLATTERY, BORGES  
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By:           /s/ James V. Fitzgerald, III            
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