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5 Attorney for Plaintiffs,  
 6 Robin Mittasch, Trustee Of The "Companion Animal Trust For  
 7 The Benefit Of Junior/Oso" And President Of The Lexus Project  
 On Behalf Of; A Passion For Paws Rescue Inc and Ex Rel Junior/Oso

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

	)	Case: 3:12-cv-04333-SI
ROBIN MITTASCH, TRUSTEE OF THE	)	
"COMPANION ANIMAL TRUST FOR	)	
THE BENEFIT OF JUNIOR/OSO" AND	)	
PRESIDENT OF THE LEXUS PROJECT	)	NOTICE OF VOLUNTARY DISMISSAL
ON BEHALF OF JUNIOR, individually;	)	WITHOUT PREJUDICE WITHOUT A COURT
A PASSION FOR PAWS RESCUE INC	)	ORDER
AND EX REL JUNIOR/OSO	)	
	)	
Plaintiffs	)	
v.	)	(Fed.R. Civ. P. 41(a)(1)(A)(i))
	)	
City of Fremont, Tri-City Animal Shelter	)	
and Sgt. Howard Russell, and DOES 1-	)	
10	)	
Defendants	)	
	)	

23 PLEASE TAKE NOTICE THAT plaintiffs ROBIN MITTASCH, President of The Lexus  
 24 Project, Inc., individually, and ex rel JUNIOR/OSO, AND A Passion for Paws Akita Rescue,  
 25 Inc., and ex rel Junior/Oso (collectively, "Plaintiffs") hereby voluntary dismiss this action  
 26 without prejudice. A responsive pleading in the form of either an answer or a motion for  
 27 summary judgment has not been filed in this action. Plaintiffs gives this notice pursuant to

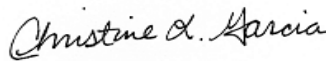
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 \_\_\_\_\_  
 NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE WITHOUT A COURT ORDER

1 Fed.R.Civ.P.41(a)(1)(A)(i).

2 In light of the fact that District Court Judge Susan Ilston saw no Standing to grant a  
3 stay of execution for the life of Junior, and that the City of Fremont thereafter executed the  
4 innocent dog Junior, Plaintiffs have already suffered irreparable injury for the loss of the  
5 most important valued subject of the lawsuit. Wherefore, Plaintiffs voluntarily Dismiss  
6 without prejudice pursuant to Fed.R.Civ.P.41(a)(1)(A)(i).

7 Dated: September 6, 2012

Respectfully Submitted,

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10 \_\_\_\_\_  
11 CHRISTINE L. GARCIA (CBN 209701)  
12 Counsel for Plaintiffs

13 **[PROPOSED] ORDER**

14  
15 In light of the above, Plaintiffs claims are DISMISSED without prejudice in their  
16 entirety. Additionally, the MOTION to Dismiss *Complaint* filed by City of Fremont (ECF  
17 Docket No. 15) is DENIED as the issues raised therein are now MOOT. Likewise the  
18 hearing on this MOTION to Dismiss *Complaint*, currently, scheduled for 9/28/2012, at  
19 09:00 AM in Courtroom 10, of the San Francisco Federal Courthouse in front of Hon.  
20 Susan Ilston, is hereby removed from the Court's calendar. Further, it is ORDERED that  
21 Plaintiff serve copies of this Order to Defendant.

22 IT IS SO ORDERED.

23 Dated: September 11, 2012

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26 \_\_\_\_\_  
27 ~~Richard W. Wicking, Clerk of Court~~  
28 U.S. District Judge

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PROOF OF SERVICE

MITTASCH v. City of Fremont	Case: 3:12-cv-04333-SI
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Document(s) Served:

NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE WITHOUT A COURT ORDER  
(Fed.R. Civ. P. 41(a)(1)(A)(i)); [PROPOSED] ORDER

I, Christine Garcia am not a party to this suit and am over the age of 18 years of age.

My business address is 2404 California Street #4, CA 94115

On the evening of September 6, 2012, I served the documents listed above on the parties in this matter by placing a true and correct copy, addressed as follows:

Fax: (510) 284-4031

Fremont City Attorney's Office  
Attn: Bronwen Lacey  
3300 Capitol Ave.  
Fremont, CA 94538

(X) FACSIMILE. I personally delivered the above-described document to the person described above by faxing this document to the fax phone numbers indicated above.

I declare under penalty of perjury under the laws of the State of California that the information in this proof of service is true and correct. Executed on September 6, 2012 in the County of San Francisco, California.

*Christine A. Garcia*

\_\_\_\_\_  
Christine Garcia