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6 Attorneys for Plaintiffs
 7 KELLIE SMITH, individually; as personal
 representative of the Estate of THOMAS SMITH, JR.,
 8 Decedent; and as Guardian Ad Litem for S.S., a minor

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

11 KELLIE SMITH, individually; KELLIE SMITH,
 12 as personal representative of the Estate of
 THOMAS SMITH, JR., Decedent; and KELLIE
 13 SMITH, as Guardian Ad Litem for S.S., a minor;

14 Plaintiffs,

15 v.

16 BAY AREA RAPID TRANSIT DISTRICT;
 17 KENTON RAINEY, individually and in his
 official capacity as CHIEF OF POLICE for BAY
 AREA RAPID TRANSIT DISTRICT; BENSON
 18 FAIROW individually and in his official capacity
 as DEPUTY CHIEF OF POLICE for BAY
 19 AREA RAPID TRANSIT DISTRICT;
 20 MICHAEL MAES individually and in his official
 capacity as DETECTIVE for BAY AREA RAPID
 21 TRANSIT DISTRICT; and DOES 1 through 10,
 inclusive,

22 Defendants.

CASE NO. 3:15-CV-02402-TEH

**STIPULATION OF DISMISSAL AND
~~PROPOSED~~ ORDER**

Complaint Filed: May 29, 2015
 Trial Date: Vacated

24 Plaintiffs Kellie Smith, individually; Kellie Smith, as personal representative of the Estate of
 25 Thomas Smith, Jr., Decedent; and Kellie Smith, as Guardian Ad Litem for S.S., a minor (“Plaintiffs”) and
 26 Defendants Bay Area Rapid Transit District; Kenton Rainey, individually and in his official capacity as
 27 Chief of Police for Bay Area Rapid Transit District; Benson Fairow, individually and in his official capacity
 28 as Deputy Chief of Police for Bay Area Rapid Transit District; Michael Maes, individually and in his

1 official capacity as Detective for Bay Area Rapid Transit District (collectively “Defendants”) agree and
2 hereby stipulate to dismiss the entire action listed above.

3 **WHEREAS**, Plaintiffs filed their First Amended Complaint for Damages for Violation of Civil
4 Rights, 42 U.S.C. §1983; Interference with Constitutional Rights, Cal. Civil Code §52.1; and Wrongful
5 Death, Cal. Code of Civil Procedure §377 on September 4, 2015;

6 **WHEREAS**, Plaintiffs and Defendants collectively have settled this matter on or about
7 November 17, 2016;

8 **THEREFORE, IT IS HEREBY STIPULATED** by and between Plaintiffs and Defendants
9 through their designated counsel that the above-captioned action should be dismissed with prejudice as
10 to all Defendants pursuant to FRCP 41(a)(1)(A). The parties further stipulate that each party shall bear
11 their own attorneys’ fees, expenses and costs.

12 **IT IS SO STIPULATED.**

13 Dated: March 9, 2017

Respectfully submitted,

14 **RAINS LUCIA STERN, PC**

15
16 */s/ Joseph R. Lucia*

By: Joseph R. Lucia

17 Attorney for Plaintiffs KELLIE SMITH,
18 individually; as personal representative of the Estate
19 of THOMAS SMITH, JR., Decedent; and as
Guardian Ad Litem for S.S., a minor

20 **LEWIS BRISBOIS BISGAARD & SMITH, LLP**

21
22 */s/ Dana Fox*

By: Dana Fox

23 Attorney for Defendants BAY AREA RAPID
24 TRANSIT DISTRICT; KENTON RAINEY,
25 individually and in his official capacity as CHIEF
26 OF POLICE for BAY AREA RAPID TRANSIT
27 DISTRICT; BENSON FAIROW individually and
28 in his official capacity as DEPUTY CHIEF OF
POLICE for BAY AREA RAPID TRANSIT
DISTRICT; MICHAEL MAES individually and in
his official capacity as DETECTIVE for BAY
AREA RAPID TRANSIT DISTRICT

~~PROPOSED~~ ORDER

The Court having considered the stipulation of the parties, and good cause appearing therefor, orders as follows:

1. The action is dismissed with prejudice as against Defendants Bay Area Rapid Transit District; Kenton Rainey, individually and in his official capacity as Chief of Police for Bay Area Rapid Transit District; Benson Fairrow, individually and in his official capacity as Deputy Chief of Police for Bay Area Rapid Transit District; Michael Maes, individually and in his official capacity as Detective for Bay Area Rapid Transit District pursuant to FRCP 41(a)(1)(A).

2. Each party shall bear their own costs and attorneys' fees.

3. The court shall retain jurisdiction over this matter to enforce the terms of the November 17, 2016 Settlement Agreement.

IT IS SO ORDERED.

Dated 03/13, 2017


Hon. Thelton E. Henderson