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 JEREMY FOY, CRISTELA SOLORZANO, MATTHEW
 7 ORTEGA, RON VENZON and SCOTT MACKDANZ

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

11 CHESTER MILLER and BETTY MILLER, CASE NO: C 11-00543 CW

12 Plaintiffs,

13 vs.

14 CITY OF MENLO PARK, a governmental
 entity; RAY SAMUELS, in his capacity
 15 as Interim Chief of Police for CITY OF
 MENLO PARK; JEREMY FOY;
 16 CRISTELA SOLORZANO; MATTHEW
 ORTEGA; RON VENZON; SCOTT
 17 MACKDANZ; and DOES 5-25,
 individually, and in their capacity as police
 18 officers for CITY OF MENLO PARK,

19 Defendants.

20 _____ /

**STIPULATION REGARDING
 PLAINTIFFS' VOLUNTARY DISMISSAL
 OF CERTAIN COUNTS IN THE FIRST
 CAUSE OF ACTION AND DISMISSAL OF
 THE SECOND CAUSE OF ACTION**

22 The parties to this lawsuit, Plaintiffs, CHESTER AND BETTY MILLER, ("Plaintiffs"),
 23 and Defendants, OFFICERS RAY SAMUELS, JEREMY FOY, CRISTELA SOLORZANO,
 24 MATTHEW ORTEGA, RON VENZON, SCOTT MACKDANZ and the CITY OF MENLO
 25 PARK, ("Defendants"), hereby stipulate and agree that Plaintiffs shall voluntarily dismissing
 26 the following:

27 First Cause of Action: Plaintiffs hereby waive and dismiss the following counts in
 28 their first cause of action seeking relief under 42 U.S.C. §1983: (1) 4th Amendment claim for

1 wrongful search and seizure as it pertains to the Plaintiffs' claims that the Officer Defendants
2 were required to have a search warrant to enter Plaintiffs' house and search the bedroom of
3 Plaintiffs' grandson, Dennis Miller; and (2) 14th Amendment claim for equal protection/ racial
4 discrimination by Plaintiffs.

5 Second Cause of Action: Plaintiffs hereby waive and dismiss the second cause of
6 action against the City of Menlo Park and Ray Samuels, alleging that the actions of the
7 officers were pursuant to a policy, regulation, custom or usage of the City. (*Monell v. Dept.*
8 *of Social Services of City of New York* (1978) 436 U.S. 658, 690-1).

9 Therefore, it is the understanding of the parties that the remaining cause of action
10 in the First Amended Complaint will be against Officer Defendants, Foy, Solorzano, Ortega,
11 Venzon, and Mackdanz, for the allegations of the use of excessive force and false
12 imprisonment of the Plaintiffs.

13 The above is stipulated and agreed by the parties.

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15 Dated: December 15, 2011

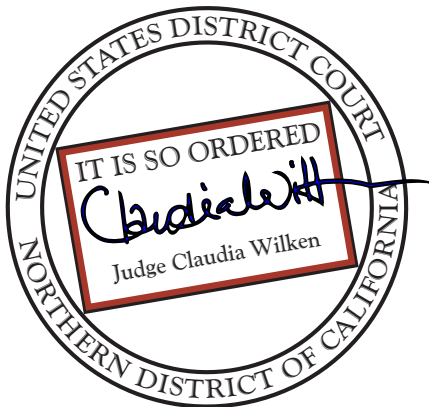
LAW OFFICES OF JOHN L. BURRIS

17 By: /s/
18 JOHN L. BURRIS, Esq.
19 Attorneys for Plaintiffs
20 CHESTER MILLER and BETTY MILLER

21 Dated: December 15, 2011

JORGENSON, SIEGEL,
McCLURE & FLEGEL, LLP

23 By: /s/
24 John L. Flegel
25 Attorneys for CITY OF MENLO PARK, RAY
26 SAMUELS, JEREMY FOY, CRISTELA
27 SOLORZANO, MATTHEW ORTEGA, RON
28 VENZON and SCOTT MACKDANZ



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CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Northern District's CM/ECF System

I hereby certify that I electronically filed the **STIPULATION REGARDING PLAINTIFFS' VOLUNTARY DISMISSAL OF CERTAIN COUNTS IN THE FIRST CAUSE OF ACTION AND DISMISSAL OF THE SECOND CAUSE OF ACTION** on behalf Defendants CITY OF MENLO PARK, RAY SAMUELS, JEREMY FOY, CRISTELA SOLORZANO, MATTHEW ORTEGA, RON VENZON and SCOTT MACKDANZ, with the Clerk of the Court for the United States District Court for the Northern District of California, Oakland Division by using the Northern District's CM/ECF system on December 15, 2011.

I certify that all participants in the case are registered CM/ECF users and that service was accomplished by the CM/ECF system to email addresses:

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/ s /
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