1	United States Attorney SARA WINSLOW (DCBN 457643) Chief, Civil Division CLAIRE T. CORMIER (CABN 154364) Assistant United States Attorney 150 Almaden Boulevard, Suite 900 San Jose, California 95113 Telephone: (408) 535-5082 FAX: (408) 535-5081 claire.cormier@usdoj.gov Attorneys for Federal Defendants		
2			
3			
4			
5			
6			
7			
8			
9	UNITED STATES DISTRICT COURT		
10	NORTHERN DISTRICT OF CALIFORNIA		
11	OAKLAND DIVISION		
12	BRENDAN HUERTA,) CASE NO. CV 16-00434 KAW		
13	Plaintiff,		
14) STIPULATION AND [PROPOSED] ORDER v.) WITHDRAWING MOTION TO DISMISS AND		
15	UNITED STATES DEPARTMENT OF ALLOWING PLAINTIFF TO FILE AMENDED COMPLAINT		
16	AGRICULTURE, AGRICULTURE) RESEARCH SERVICE, DOES 1-20,)		
17	Defendants.		
18			
19	The federal defendants filed a motion to dismiss which is currently set for hearing on August 18,		
20	2016. On July 14, 2016, defendants' counsel emailed plaintiff's counsel advising him that defendants'		
21	investigation had discovered that the person involved in the incident at issue in this case was an		
22	employee of a federal contractor, not a federal employee. Accordingly, defendants contend that,		
23	pursuant to the Federal Tort Claims Act, the United States is not liable for the torts of its contractors,		
24	who are not considered "employees" under the FTCA. Defendants' counsel sent a redacted copy of the		
25	contract at issue to plaintiff's counsel on July 14, 2016, and, on July 21, 2016, emailed plaintiff's		
26	attorney with information regarding the identity of the individuals involved in the subject incident.		
27	In order to allow plaintiff an opportunity to amend the complaint, the parties hereby		
28	STIPULATE AND REQUEST that defendants' currently pending motion to dismiss be withdrawn and		
	STIPULATION WITHDRAWING MOTION AND ALLOWING PLAINTIFF TO FILE AMENDED COMPLAINT CASE NO. CV 16-00434 KAW		

1	that plaintiff shall have until August 12, 2016 to file an amended complaint. The federal defendants sha		
2	have 30 days after the filing of the amended complaint to answer, move, or otherwise respond to the		
3	amended complaint.		
4	IT IS SO STIPULATED.		
5		Respectfully submitted,	
6	Dated: July 26, 2016	BRADY LAW GROUP	
7	, n	/s/	
8	Ву:	STEVEN J. BRADY Attorney for Plaintiff	
9	Dated: July 26, 2016	BRIAN J. STRETCH UNITED STATES ATTORNEY	
11		/s/	
12	Ву:	CLAIRE T. CORMIER ¹	
13		Assistant U.S. Attorney	
14			
15	[PROPOSED] ORDER		
16	Pursuant to the stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED		
17	that the federal defendants' currently pending motion to dismiss is withdrawn. The hearing on that		
18	motion, currently scheduled for August 18, 2016, is hereby vacated. Plaintiff shall file an amended		
19	complaint no later than August 12, 2016. The federal defendants shall have 30 days from the date of		
20	filing of the amended complaint to answer, move, or otherwise respond to the amended complaint.		
21			
22		$\nu : I \rightarrow$	
23	Dated:, 2016	KANDIS A. WESTMORE	
24		UNITED STATES MAGISTRATE JUDGE	
25			
26			
27			
28	¹ I, Claire T. Cormier, hereby attest that I have been authorized to submit the electronic signatures indicated by a "conformed" signature (/s/) within this e-filed document. STIPULATION WITHDRAWING MOTION AND ALLOWING PLAINTIFF TO FILE AMENDED COMPLAINT CASE NO. CV 16-00434 KAW		