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17 UNITED STATES DISTRICT COURT
 18 FOR THE NORTHERN DISTRICT OF CALIFORNIA

19 GERARDO HERNANDEZ,
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 21 Plaintiff,
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 23 v.
 24 EL METATE MEXICAN RESTAURANT
 25 CORP dba TAQUERIA EL METATE;
 26 KAREN LEE FINNEY; ROBERT L
 27 BATTAGIN as an Individual and in his
 28 Capacity as Trustee for the BATTAGIN
 ROBERT L TRUST,

Case No. 4:18-cv-01759 KAW
 Civil Rights

**STIPULATION AND ~~PROPOSED~~
 ORDER TO EXTEND TIME UNDER
 F.R.C.P. RULE 12(F) AS TO
 DEFENDANT EL METATE MEXICAN
 RESTAURANT CORP dba TAQUERIA
 EL METATE'S ANSWER**

Action Filed: March 21, 2018

STIPULATION

**TO THE CLERK OF THE ABOVE ENTITLED COURT AND TO ALL PARTIES AND
 TO THEIR RESPECTIVE ATTORNEYS OF RECORD:**

WHEREAS, this case has been assigned for early disclosures and mediation under General
 Order 56;

WHEREAS, Plaintiff's deadline for filing a motion under Federal Rule of Civil Procedure
 ("FRCP") Rule 12(f) to strike all or part of the Answer of Defendant EL METATE MEXICAN

1 RESTAURANT CORP dba TAQUERIA EL METATE is May 23, 2018;

2 WHEREAS, Plaintiff and Defendant EL METATE MEXICAN RESTAURANT CORP
3 dba TAQUERIA EL METATE have met and conferred regarding the alleged deficiencies in
4 Defendant's Answer;

5 WHEREAS, Plaintiff and Defendant wish to avoid the time and expense of briefing a
6 FRCP 12(f) motion until/unless mediation under General Order 56 does not succeed;

7 IT IS HEREBY STIPULATED by and among Plaintiff and Defendant that:

8 1. If the case does not settle under General Order 56, Plaintiff retains the right to file a
9 motion under FRCP 12(f). If the case does not settle at mediation:

10 a. the parties shall meet and confer about amending the Answer within 7 days
11 after the mediation has been certified as completed;

12 b. that Defendant shall thereafter be allowed an opportunity to voluntarily amend
13 its Answer prior to Plaintiff filing any Rule 12(f) motion; and

14 c. that any amended Answer shall be filed no later than 14 days after the parties
15 meet and confer.

16 2. If Defendant elects not to file an Amended Answer after the meet and confer period
17 in section 2, Plaintiff may file his 12(f) motion between 21 and 45 days past the date
18 the mediator certifies that mediation under General Order 56 has been completed.

19 **IT IS SO STIPULATED.**

20 Dated: May 14, 2018

LAW OFFICES OF PAUL L. REIN

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/s/ Aaron M. Clefton
By: AARON M. CLEFTON, ESQ.
Attorneys for Plaintiff
GERARDO HERNANDEZ

Dated: May 14, 2018

LAW OFFICES OF MANUEL RIVAS, JR.

/s/ Manuel Rivas, Jr.
By: MANUEL RIVAS, JR, ESQ.
Attorneys for Defendant
EL METATE MEXICAN RESTAURANT

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FILER'S ATTESTATION

Pursuant to Civil Local Rule 5-1, I hereby attest that on May 14, 2018, I, Aaron M. Clefton, attorney with The Law Office of Paul L. Rein, received the concurrence of Manuel Rivas, Jr. in the filing of this document.


/s/ Aaron M. Clefton
AARON M. CLEFTON

ORDER

1 Pursuant to the stipulation of the parties, and for good cause shown, it is hereby
2 ORDERED that if Plaintiff files any motion under Federal Rule of Civil Procedure 12(f) against
3 Defendant EL METATE MEXICAN RESTAURANT CORP dba TAQUERIA EL METATE,
4 such motion will be filed between 21 and 45 days past the date the mediator certifies that
5 mediation under General Order 56 has been completed. The parties shall meet and confer within
6 7 days after the mediation has been certified as completed. Defendant EL METATE MEXICAN
7 RESTAURANT CORP dba TAQUERIA EL METATE shall thereafter be allowed an opportunity
8 to voluntarily amend its answer prior to Plaintiff filing any FRCP 12(f) motion. Any amended
9 answer shall be filed no later than 14 days after the parties meet and confer.

10 **IT IS SO ORDERED.**

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12 Dated: 5/29, 2018

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14 _____
15 Honorable Kandis A. Westmore
16 United States Magistrate Judge