

1 BRYAN J. MCCORMACK (SBN 192418)
bryan@mcelawfirm.com

2 **MCCORMACK & ERLICH, LLP**

150 Post Street, Suite 742

3 San Francisco, CA 94108

Telephone: (415) 296-8420

4 Facsimile: (415) 296-8552

5 Attorneys for Plaintiff
JAMES HERNANDEZ

6 CRAIG D. NICKERSON (SBN: 215067)

7 *cnickerson@grsm.com*

MARSHALL R. LURTZ (SBN: 296254)

8 *mlurtz@grsm.com*

9 **GORDON REES SCULLY MANSUKHANI, LLP**

633 West Fifth Street, 52nd Floor

10 Los Angeles, CA 90071

Telephone: (213) 576-5092

11 Facsimile: (213) 680-4470

12 Attorneys for Defendant
BAKER CONCRETE CONSTRUCTION, INC.

13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 JAMES HERNANDEZ

17 Plaintiff,

18 v.

19 BAKER CONCRETE
20 CONSTRUCTION, INC., a Ohio
Corporation,

21 Defendants.

CASE NO.: 4:18-cv-03226-HSG

*Assigned to Hon. Judge Haywood S.
Gilliam, Jr.*

**STIPULATION FOR LEAVE TO
FILE FIRST AMENDED
COMPLAINT; ~~PROPOSED~~
ORDER**

Complaint Filed: May 30, 2018

1 The parties, Plaintiff James Hernandez (“Plaintiff) and Defendant Baker Concrete
2 Construction, Inc. (“Defendant”), hereby stipulate to allow Plaintiff to file its First Amended
3 Complaint, which is attached hereto and lodged herewith as Exhibit A (“First Amended
4 Complaint”).

5 WHEREAS, Plaintiff represents that the proposed First Amended Complaint arises out of
6 the same transaction or series of transactions as Plaintiff’s claims already at issue in this action;

7 WHEREAS, Plaintiff represents that he has recently discovered new information that
8 forms the basis of the First Amended Complaint action and is acting in good faith in bringing the
9 proposed First Amended Complaint. Based on such, he has eliminated two causes of actions,
10 added three new causes of action, and added one defendant to the First Amended Complaint;

11 WHEREAS, Defendant does not oppose the filing of the proposed First Amended
12 Complaint as a procedural matter pursuant to this Stipulation, with the understanding and on the
13 basis that Defendant’s stipulation in this regard is without waiver of, or prejudice to, its rights,
14 defenses or positions in this action;

15 WHEREAS, Defendant will not be unduly prejudiced by the filing of the proposed First
16 Amended Complaint;

17 THEREFORE, subject to the approval of this Court, the Parties hereby stipulate and agree
18 as follows:

- 19 1. Defendant shall be granted leave to file the First Amended Complaint;
- 20 2. The First Amended Complaint shall be deemed filed and personally served on
21 Defendants as of the date that this Stipulation is approved by the Court; and
- 22 3. Any responsive pleading to the First Amended Complaint shall be filed and served
23 within thirty (30) days after this Stipulation has been approved by the Court.

24 //

25 //

26 //

27 //

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO STIPULATED.

Dated: December 5, 2018

GORDON REES SCULLY MANSUKHANI

By: /s/ Craig D. Nickerson
Craig D. Nickerson
Marshall R. Lurtz
Attorneys for Defendant
Baker Concrete Construction, Inc.

Dated: December 5, 2018

McCormack and Erlich, LLP

By: /s/ Bryan J. McCormack
Bryan J. McCormack
Attorney for Plaintiff
James Hernandez

PURSUANT TO STIPULATION, IT IS SO ORDERED except the Plaintiff is directed to e-file the first amended complaint on the docket by the close of business today, December 17th.

Dated: 12/17/2018

Haywood S. Gilliam, Jr.
Hon. Judge Haywood S. Gilliam, Jr.