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13 UNITED STATES DISTRICT COURT  
 14 DISTRICT OF CALIFORNIA, NORTHERN DIVISION  
 15 SAN JOSE DIVISION  
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17 JOSEPHINE SMITH, an individual; and A.S., a  
 18 minor child, by and through her guardian ad  
 litem, JOSEPHINE SMITH,

19 Plaintiffs

20 vs.

21 CITY OF SANTA CLARA, a public entity;  
 22 CITY OF SANTA CLARA POLICE  
 DEPARTMENT, a department of the CITY OF  
 23 SANTA CLARA; SANTA CLARA POLICE  
 INVESTIGATOR HENDERSON; SANTA  
 24 CLARA POLICE SERGEANT HILL; and  
 Does 1-100, inclusive,

25 Defendants,  
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 27  
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Case No.: CV 11-03999 LHK

**STIPULATION AND ~~[PROPOSED]~~  
 ORDER TO PERMIT FILING OF FIRST  
 AMENDED COMPLAINT**

1 **STIPULATION**

2 Subject to the approval of the Court, the parties stipulate as follows:

3 1. On August 15, 2010, plaintiffs, Josephine Smith and A.S., filed the Complaint in  
4 this action.

5 2. In paragraph 9 of their Complaint, plaintiffs alleged they were ignorant of the true  
6 names and capacities of defendants sued therein as Does 1 through 100, and therefore sued these  
7 defendants by fictitious names.

8 3. Clay Rojas is currently serving a 36-month term in the Federal Correctional  
9 Institution in Big Spring, Texas ("FCI, Big Spring").

10 4. On June 13, 2012, the parties took the deposition of Mr. Rojas at FCI, Big Spring.  
11 Mr. Rojas was represented by Mark Davis, a California attorney.

12 5. During his deposition, Mr. Rojas testified that on October 7, 2010, the date of the  
13 incident which is the subject of the instant civil litigation, he was a Santa Clara Police  
14 Department ("SCPD") officer.

15 6. Mr. Rojas also testified that, during the October 7, 2010 incident, he spoke with  
16 plaintiff, Josephine Smith, and physically restrained and handcuffed her.

17 7. Defendants do not oppose the filing of a First Amended Complaint naming Mr.  
18 Rojas as Doe 1.

19 8. Defendants do not waive any right to challenge the First Amended Complaint.

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