

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 Garland Henderson, et al.,

5 Plaintiffs

6 v.

7 Clark County School District,

8 Defendant

Case No.: 2:17-cv-01767-JAD-NJK

**Order Construing Stipulation to Dismiss as
a Motion to Amend Under FRCP 15(a)
and Granting It**

[ECF No. 30]

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10 Plaintiffs Garland Henderson and Tammie Keith-Henderson are bus drivers for the Clark
11 County School District, who sue their employer for alleged violations of Title VII and the Age
12 Discrimination in Employment Act. The parties filed a stipulation and proposed order to
13 dismiss, with prejudice, Tammie’s fifth through eighth claims for relief, leaving only retaliation
14 claims by both Garland and Tammie.¹ But the parties cite no authority to support their joint
15 request, and the Ninth Circuit has instructed that “Federal Rule of Civil Procedure 15(a) is the
16 appropriate mechanism [when] ‘a plaintiff desires to eliminate an issue, or one or more but less
17 than all of several claims, but without dismissing as to any of the defendants.’”² I therefore
18 construe the parties’ dismissal stipulation³ as one to amend the complaint under FRCP 15(a)(2),
19 and I grant it.

20 Accordingly, with good cause appearing, IT IS HEREBY ORDERED that the parties’
21 stipulation to dismiss some but not all of Tammie Keith-Henderson’s claims [ECF No. 30],
22 which I construe as a stipulation under FRCP 15(a)(2) for the plaintiffs to amend their complaint,
23 is **GRANTED**. The plaintiffs have until **March 5, 2018**, to file a second-amended complaint


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25 ¹ ECF No. 30.

26 ² *Hells Canyon Preservation Council v. U.S. Forest Serv.*, 403 F.3d 683, 687–88 (9th Cir. 2005)
27 (quoting *Ethridge v. Harbor House Restaurant*, 861 F.2d 1389, 1392 (9th Cir. 1988)).

28 ³ ECF No. 30.

1 that does **not** contain any of the claims that the parties agreed would be dismissed with prejudice.
2 The plaintiffs are cautioned that the scope of this leave is narrow: they may only drop claims, not
3 add new claims or allegations.

4 Dated: February 21, 2018

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6 U.S. District Judge Jennifer A. Dorsey

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