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17	UNITED STATES DISTRICT COURT	
18	EASTERN DISTRICT OF CALIFORNIA - FRESNO	
19	ARMANDO OLVERA,	No. 1:11-CV-00540-AWI-GSA
20	Plaintiff,)) STIPULATION AND ORDER FOR
21	v.	DISMISSAL OF ALL CLAIMS AGAINST
22	CITY OF MODESTO, MODESTO POLICE DEPARTMENT, MODESTO POLICE OFFICERS MARK ULRICH (#10170) PD ADJ EV PE AVEDS (#11106)	DEFENDANTS BRADLEY BEAVERS, BRIAN KLEIBER, RANDY RADUECHEL AND TIMOTHY HELTON AND CERTAIN CLAIMS AGAINST DEFENDANTS CITY OF MODESTO, MODESTO POLICE
23		
24	(#10170), BRADLEY BEAVERS (#11196), BRIAN KLEIBER (#103550, RANDY	DEPARTMENT AND MARK ULRICH
25	RADUECHEL (#11267) AND SGT. TIM HELTON (#10295), DOES 1 through 30,	
26	Defendants.))
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STIPULATION

The parties to the above-entitled action, by and through their respective counsel of record, hereby stipulate and agree as follows:

- 1. All claims brought by plaintiff Armando Olvera against defendants Bradley Beavers, Brian Kleiber, Randy Raduechel and Sgt. Timothy Helton shall be dismissed with prejudice
- 2. Plaintiff's second cause of action raising a Title 42 U.S.C. section 1983 claim against the defendant City of Modesto shall be dismissed with prejudice;
- 3. Plaintiff's tenth cause of action under California Civil Code section 52.1 shall be dismissed without prejudice to its renewal and further litigation in this action if the current case law requiring an act or threat of violence separate from the constitutional violation claimed is changed so as to remove that requirement prior to the completion of the trial in this action.
- 4. In recognition of the fact that plaintiff's sixth cause of action claiming "assault by means of force likely to produce great bodily injury" is subsumed in plaintiff's seventh cause of action for assault, plaintiff's sixth cause of action for "assault by means of force likely to produce great bodily injury" shall be dismissed with prejudice;

It is further stipulated and agreed that, as to each and every cause of action so dismissed pursuant to this stipulation, each party shall bear his, her or its own costs of litigation, including attorney's fees.

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Case 1:11-cv-00540-AWI-GSA Document 22 Filed 01/25/13 Page 3 of 4 IT IS SO STIPULATED. Date: January 23, 2013 SUSANA ALCALA WOOD City Attorney JAMES F. WILSON By: Senior Deputy City Attorney Attorneys for Defendants Date: January 23, 2013 LAW OFFICE OF ALONZO J. GRADFORD LAW OFFICE OF SANJAY S. SCHMIDT By: SANJAY S. SCHMIDT Attorneys for Plaintiff -3-

ORDER

IT IS HEREBY ORDERED that, pursuant to the stipulation of the parties which is recited above, certain claims brought by the plaintiff Armando Olvera in the within action shall be, and hereby are **DISMISSED** as follows:

- 1. All claims brought by plaintiff Armando Olvera against defendants Bradley Beavers, Brian Kleiber, Randy Raduechel and Sgt. Timothy Helton are **DISMISSED WITH PREJUDICE**;
- 2. Plaintiff's second cause of action raising a Title 42 U.S.C. section 1983 claim against the defendant City of Modesto is **DISMISSED WITH PREJUDICE**;
- 3. Plaintiff's tenth cause of action under California Civil Code section 52.1 is **DISMISSED WITHOUT PREJUDICE** to its renewal and further litigation in this action if the current case law requiring an act or threat of violence separate from the constitutional violation claimed is changed so as to remove that requirement prior to the completion of the trial in this action.
- 4. Plaintiff's sixth cause of action claiming "assault by means of force likely to produce great bodily injury" is **DISMISSED WITH PREJUDICE**;

IT IS FURTHER ORDERED that, pursuant to that same stipulation, as to each and every cause of action so dismissed pursuant to this stipulation and order, each party shall bear his, her or its own costs of litigation, including attorney's fees.

IT IS SO ORDERED.

Dated: <u>January 24, 2013</u>

SENIOR DISTRICT JUDGE

Ash Ilii