

AUG 28 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JENNIFER CRUZ, Individually and on behalf of the estate of Ceasar Cruz, and as guardian ad litem for R.C., C.C., C.C., and M.C., all minors; THERESA SMITH, Individually, and as guardian ad litem for M.C., a minor; LEONARD CRUZ, Individually,

Plaintiffs - Appellants,

v.

THE CITY OF ANAHEIM, a Governmental Entity; CHIEF JOHN WELTER; DEPUTY CHIEF CRAIG HUNTER; OFFICER MICHAEL BROWN, Individually; OFFICER BRUCE LINN, Individually; OFFICER KELLY PHILLIPS, Individually; OFFICER NATHAN STAUBER, Individually; OFFICER PHILLIP VARGAS, Individually,

Defendants - Appellees.

No. 12-55481

D.C. No. 2:10-cv-03997-MMM-JEM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Margaret M. Morrow, District Judge, Presiding

Argued and Submitted January 10, 2014
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **CLIFTON**, Circuit Judge, and **RAKOFF**,
Senior District Judge.**

1. Because plaintiffs withdrew their motion to amend their complaint before the district court ruled on it, they've waived any argument that the court should've granted their motion. See, e.g., Dodd v. Hood River Cnty., 59 F.3d 852, 863 (9th Cir. 1995).

2. We affirm the district court's denial of plaintiffs' motion to reconsider the magistrate judge's pretrial order regarding their effort to depose the confidential informant. Given that the confidential informant didn't witness the shooting, and that the defendants have presented credible evidence that revealing the informant's identity could harm both the informant and law enforcement efforts, the district court's decision to protect the informant's identity wasn't clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a); see also Roviario v. United States, 353 U.S. 53, 59–62 (1957).

** The Honorable Jed S. Rakoff, Senior District Judge for the U.S. District Court for the Southern District of New York, sitting by designation.