

1 Michael G. Woods, # 058683-0  
 Deborah A. Byron, #105327  
 2 McCormick, Barstow, Sheppard,  
 Wayte & Carruth LLP  
 3 P.O. Box 28912  
 5 River Park Place East  
 4 Fresno, CA 93720-1501  
 Telephone: (559) 433-1300  
 5 Facsimile: (559) 433-2300

(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Defendants  
 COUNTY OF TULARE and TULARE COUNTY  
 7 SHERIFF BILL WITTMAN

8 UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA

11 PAULA BORGIOLI,  
 12 Plaintiff,  
 13 v.  
 14 COUNTY OF TULARE AND THE  
 SHERIFF OF THE COUNTY OF  
 15 TULARE and DOES 1 through 50,  
 inclusive,  
 16 Defendants.  
 17

Case No. 01:08-CV-00857 LJO SMS

**JOINT STIPULATION TO STAY  
 PROCEEDINGS PENDING RESOLUTION  
 OF ADMINISTRATIVE PROCEEDINGS**

18 IT IS HEREBY STIPULATED by and between Plaintiff, PAULA BORGIOLI, by  
 19 and through her attorneys of record, Penner, Bradley & Simonian, by Peter S. Bradley, and  
 20 Defendants, COUNTY OF TULARE and TULARE COUNTY SHERIFF BILL WHITMAN, by  
 21 and through their attorneys of record, McCormick, Barstow, Sheppard, Wayte & Carruth LLP, by  
 22 Deborah A. Byron, as follows:

23 1. The parties submit this Joint Stipulation to Stay Proceedings due to a  
 24 pending matter before the Board of Supervisors of the County of Tulare: In the Matter of the  
 25 Dismissal of Paul Borgioli, Appellant, Case No. 2009030261.

26 2. The above-referenced administrative matter stems from the dismissal of  
 27 Paula Borgioli from employment with the Tulare County Sheriff's Department, effective  
 28

1 February 9, 2009. Ms. Borgioli appealed the Final Notice of Disciplinary Action: Dismissal,  
2 which is currently set for formal hearing on July 7, 8 and 9, 2009.

3 3. Tulare County Personnel Rules provide for a formal disciplinary hearing  
4 following an employee's notice of appeal in response to a notice of disciplinary action. Following  
5 the formal hearing, the hearing officer will prepare a record of the proceedings, and  
6 recommended findings, conclusions and a recommended decision, which is filed with the Tulare  
7 County Board of Supervisors. The Board of Supervisors then reviews the record, adopts the  
8 findings, conclusions and recommended decision of the hearing officer or rejects the  
9 recommendations in whole or in part, and adopts its own findings, conclusions and decision. The  
10 Board of Supervisors is authorized to affirm, modify or reverse the order of the appointing  
11 authority, which decision is final.

12 4. The parties agree that this matter should be stayed pending resolution of  
13 the appeal of the dismissal of Paula Borgioli, to permit discovery on issues relating to Borgioli's  
14 termination, to prevent piecemeal litigation and to preserve court time and resources. Whether or  
15 not good cause exists for the decision for disciplinary action against Borgioli will be an issue in  
16 this civil action.

17 5. Counsel for the parties herein are not counsel of record in the matter of the  
18 dismissal of Paula Borgioli, but are informed and believe that recommendations from the hearing  
19 officer will be issued within approximately 30 days of completion of the hearing, and the Board  
20 of Supervisors thereafter will issue its final decision within approximately 30 days. The parties  
21 expect that a final decision of the Board of Supervisors will be issued around September of 2009.

22 6. The parties agree that an immediate lift of stay will be requested upon issue  
23 of the final decision by the Board of Supervisors. It is agreed that should judicial review of the  
24 decision made after hearing be sought pursuant to Code of Civil Procedure Section 1094.6, or any  
25 other statutory provision, the terms of this Stipulation for a lift of stay will not be affected. The  
26 parties agree that issue of the final decision of the Tulare County Board of Supervisors is the  
27 triggering event for which the parties will immediately seek a lift of stay.

28 ///

