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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

14 AURORA FIGUEROA, on her own behalf, and as
15 successor in interest to MARTIN FIGUEROA,
and LIZETTE FIGUEROA, on her own behalf,

16 Plaintiffs,

17 v.

18 CITY OF FRESNO, a municipal corporation,
19 OFFICER ROBERT ALVAREZ, individually and
in his capacity as a police officer for the CITY OF
20 FRESNO, and OFFICER MIKAL CLEMENT
individually and in his capacity as a police officer
for the CITY OF FRESNO,

21 Defendants.
22

Case No. 1:15-cv-00349-DAD-BAM

**STIPULATION AND ORDER
REGARDING EXPERT
DISCLOSURE AND DISCOVERY**

Trial Date: August 22, 2017

23 Pursuant to Civil Local Rule 144, Plaintiffs Aurora Figueroa and Lizette Figueroa, and
24 Defendants City of Fresno, Mikal Clement, and Robert Alvarez (collectively, “the parties”) by
25 and through their respective counsel, stipulate to the following terms regarding expert witness
26 disclosure and discovery in light of Defendants’ desire to designate and disclose a new expert
27 witness:

28 STIPULATION AND ORDER REGARDING EXPERT DISCLOSURE AND DISCOVERY
CIVIL CASE NO. 1:15-CV-00349-DAD-BAM

1 WHEREAS, in its July 22, 2016 Stipulation and Order, the Court set an expert disclosure
2 deadline of July 29, 2016 (Dkt. No. 48);

3 WHEREAS, on July 29, 2016, both parties disclosed their experts and provided expert
4 reports, with Defendants' report from Romeo F. Ingreso, Jr.;

5 WHEREAS, on April 10, 2017, the parties scheduled expert depositions for May 15 and
6 May 16, 2017 at Plaintiffs' counsel's San Francisco office;

7 WHEREAS, on May 10, 2017, Defendants' counsel informed Plaintiffs' counsel that
8 Mr. Ingreso is no longer able to serve as an expert in this matter and that Defendants desire to
9 retain a new expert;

10 WHEREAS, in light of this change, the parties agreed to postpone the scheduled May 15
11 and May 16, 2017 expert depositions;

12 WHEREAS, two of Plaintiffs' experts had already made air travel reservations;

13 WHEREAS, the parties wish to work together to come to an agreement regarding
14 Defendants' substitution of expert witness and rescheduling of expert depositions,

15 NOW THEREFORE, the parties hereby stipulate that

16 1. Defendants shall designate and disclose a new expert, to be filed with the Court by
17 no later than June 9, 2017 (per the Court's Order Denying Plaintiffs' Request to Seal Documents
18 and Amending Pretrial Scheduling Order (Dkt. No. 55));

19 2. Defendants shall serve on Plaintiffs the full report of their new expert by no later
20 than June 9, 2017;

21 3. Defendants' new expert shall not offer any opinions on issues or topics different
22 from those disclosed in the July 29, 2016 expert report of Romeo F. Ingreso—namely,
23 Defendants' new expert's opinions will be limited to those regarding (i) entry into the house,
24 (ii) use of the canine, and (iii) whether the use of force was reasonable;

25 4. Plaintiffs reserve the right to object and/or to serve a rebuttal report should any of
26 Defendants' new expert's opinions differ from those disclosed in the July 29, 2016 expert report
27 of Romeo F. Ingreso;

1 5. Defendants will not provide their new expert with any of Plaintiffs' expert reports
2 until after Defendants' new expert has served his new report;

3 6. The depositions for both parties' expert witnesses will be rescheduled to July 6 and
4 July 7, 2017 at the San Francisco office of Plaintiffs' counsel and shall be held in the following
5 order: (i) Defendants' expert, (ii) Plaintiffs' expert James L. Norris, (iii) Plaintiffs' expert D. P.
6 Van Blaricom, and (iv) Plaintiffs' expert Ernest Burwell, unless otherwise agreed to by the parties
7 in writing; and

8 7. Defendants shall reimburse Plaintiffs for reasonable cancelation costs incurred in
9 rescheduling air travel arrangements for Plaintiffs' experts.

10 **IT IS SO STIPULATED.**

11 Dated: May 15, 2017

MORRISON & FOERSTER LLP

13 By: /s/ Arturo J. González
14 ARTURO J. GONZÁLEZ

15 Attorneys for Plaintiffs

16 FERGUSON, PRAET & SHERMAN

17 By: /s/ Bruce D. Praet (as authorized on 05/15/17)
18 BRUCE D. PRAET

19 Attorneys for Defendants

20
21 **IT IS SO ORDERED.**

22 Dated: May 16, 2017

23 /s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE