

1 Lawrence D. Murray (SBN 77536)  
 MURRAY & ASSOCIATES  
 2 1781 Union Street  
 San Francisco, CA 94123  
 3 Tel: (415) 673-0555  
 Fax: (415) 928-4084

4 Attorneys for Plaintiff  
 5 MAGGIE FRANKLIN

6  
 7 **UNITED STATES DISTRICT COURT**  
 8  
 9 **Eastern District of California**  
 10  
 11 **Sacramento Division**

12 MAGGIE FRANKLIN,

13 Plaintiff,

14 vs.

15 SACRAMENTO AREA FLOOD CONTROL  
 16 AGENCY, a public entity, CITY OF  
 SACRAMENTO, a public agency, STEIN  
 17 BUER, and JULIE LEINERT

18 Defendants.

No. 2:07-CV-01263-WBS-GGH

**EX PARTE APPLICATION FOR ORDER,  
 DECLARATION IN SUPPORT THEREOF,  
 AND [~~PROPOSED~~] ORDER TO MODIFY  
 PRETRIAL CONFERENCE  
 STATEMENT FILING DEADLINE FOR  
 PLAINTIFF'S PRETRIAL CONFERENCE  
 STATEMENT TO APRIL 2, 2009**

Plaintiff's PTC Statement Date: April 1, 2009

Complaint Filed: June 26, 2007

1st Amended Complaint Filed: June 16, 2008

21  
 22 **APPLICATION FOR ORDER**

23 Plaintiff MAGGIE FRANKLIN by and through her attorneys of record, hereby requests the  
 24 Court further modify the Pre-Trial Scheduling Order by extending the date for filing Plaintiff's final Pre  
 25 Trial Conference Statements by one day. It is requested that the plaintiff submit her final Pre Trial  
 26 Conference Statements, which is currently set for April 1, 2009, be extended to April 2, 2009.

27 Jury trial in this case is currently scheduled for May 27, 2009. The pretrial conference is  
 28 currently set for Monday, April 6, 2009.

1 Good cause exists to change the Final Pre-Trial Conference Statement due date because after a  
2 week of depositions in Fresno in a similar type case, plaintiff's counsel has just returned to San  
3 Francisco to prepare the Pretrial Conference Statement for plaintiff, and that Defendants' Motion for  
4 Summary Judgment, or in the Alternative, Partial Summary Judgment ("Defendants' Motion") against  
5 all of Plaintiff's nine claims for relief and ruling from the Court was pending before the Court until last  
6 week. The hearing for Defendants' Motion came before the Court on March 16, 2009, at 2:00 p.m., and  
7 the Final Pre-Trial Conference is scheduled to occur by the Court's order on April 6, 2009.

8 On March 16, 2009, at the hearing on Defendants' Motion, the Court suggested that the parties  
9 should meet and confer regarding the Statements' due dates since the Court wanted to keep the Pre-Trial  
10 Conference on the same date (not continue the April 6, 2009, Pre-Trial Conference) and anticipated that  
11 a ruling may be issued some time during the week of March 23, 2009. At the time of the hearing the  
12 Court and the parties believed that obtaining the Court's ruling on Defendants' Motion for Summary  
13 Judgment before preparing their Separate Pre-Trial Statements would result in a more efficient and  
14 effective use of the Court's and Parties' time and resources.

15 Since offering to consider a continuance of the filing of the pretrial order, the parties, have  
16 submitted one stipulation for and the Court has ordered a continuance of the filing to April 1, 2009.

17 Plaintiff's counsel has asked defendant's counsel, Carl L. Fessenden, for a stipulation to extend  
18 plaintiff's filing of the Pretrial Statement by one day. Mr. Fessenden has indicated that he could not  
19 stipulate to it but would have no objection to plaintiff being granted an additional 24 hours for the filing  
20 of the Pretrial Statement. When asked if he would like the same extension, Mr. Fessenden indicated that  
21 he will be filing the statement for defendants on April 1, 2009, if not before. For this reason, the parties  
22 respectfully request the Court modify the Pre Trial Scheduling Order so that final Pre Trial Conference  
23 Statements for plaintiff be due April 2, 2009.

24 DATED:

Respectfully submitted,

MURRAY & ASSOCIATES

/s/ Lawrence D. Murray

LAWRENCE D. MURRAY

Attorneys for Plaintiff Maggie Franklin

26 ///

27 ///

28 ///

1                   **DECLARATION OF LAWRENCE D. MURRAY IN SUPPORT OF APPLICATION FOR**  
2                   **ORDER OF THE COURT TO EXTEND THE FILING OF THE PLAINTIFF'S PRETRIAL**  
3                   **CONFERENCE STATEMENT BY ONE DAY**

4 I, Lawrence D. Murray, declare:

5                   1. I am the attorney for plaintiff who is charged with the responsibility to represent her at  
6 trial of this matter.

7                   2. I request the order of this court that the Plaintiff's Pre Trial Conference Statements,  
8 which is currently set to be filed on April 1, 2009, be extended to on or before April 2, 2009.

9                   3. Jury trial in this case is currently scheduled for May 27, 2009. The pretrial conference is  
10 currently set for Monday, April 6, 2009.

11                   4. Good cause exists to change the Final Pre-Trial Conference Statement due date because I  
12 have just returned to San Francisco to prepare the Pretrial Conference Statement for plaintiff after  
13 spending the last week in depositions all day in Fresno in a matter set for trial in Fresno on April 27,  
14 2009.

15                   5. Though I have been diligently working on the plaintiff's Pretrial Statement, as of yet I do  
16 not believe it will be finished and ready for filing by 11:59 p.m. on April 1, 2009.

17                   6. The hearing on the Pretrial Statement has been delayed to permit the hearing and order  
18 on Defendants' Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment  
19 ("Defendants' Motion") against all of Plaintiff's nine claims for relief and ruling from the Court. This  
20 ruling was pending before the Court until last week.

21                   7. The hearing for Defendants' Motion for Summary Judgment or Partial Summary  
22 Judgment came before the Court on March 16, 2009 2:00 p.m., and the Final Pre-Trial Conference is  
23 scheduled to occur by the Court's order on April 6, 2009.

24                   8. On March 16, 2009, at the hearing on Defendants' Motion, I am informed by the attorney  
25 present for plaintiff and the attorney present for defendants that the Court suggested that the parties  
26 should meet and confer regarding the Statements' due dates since the Court wanted to keep the Pre-Trial  
27 Conference on the same date (not continue the April 6, 2009, Pre-Trial Conference) and anticipated that  
28 a ruling may be issued some time during the week of March 23, 2009. At the time of the hearing the  
Court and the parties believed that obtaining the Court's ruling on Defendants' Motion for Summary  
Judgment before preparing their Separate Pre-Trial Statements would result in the more efficient and  
effective use of the Court's and Parties' time and resources.

1           9. Since offering to consider a continuance of the filing of the pretrial order, the parties,  
2 have submitted one stipulation for and the Court has ordered a continuance of the filing of both Pretrial  
3 Statements to April 1, 2009.

4           10. In my capacity as Plaintiff's counsel, after sending requests to the court via email, I  
5 called and asked defendant's counsel, Carl L. Fessenden, for a stipulation to extend plaintiff's filing of  
6 the Pretrial Statement by one day. Mr. Fessenden indicated that he could not stipulate to it but would  
7 have no objection to plaintiff being granted an additional 24 hours for the filing of the Pretrial  
8 Statement. When I asked him if he would like the same extension, Mr. Fessenden indicated that he will  
9 be filing the Pretrial Statement for defendants on April 1, 2009, if not before.

10           11. For these reasons, the plaintiff respectfully requests the Court modify the Pre Trial  
11 Scheduling Order so that the final Pre Trial Conference Statements for plaintiff be due one day after it is  
12 currently scheduled for filing, specifically on April 2, 2009.

13           I declare under penalty of perjury that the foregoing is true and correct and that this declaration  
14 was executed in San Francisco, California on March 31, 2009.

15  
16    /s/ Lawrence D. Murray \_\_\_\_\_  
17   Lawrence D. Murray

18 ///  
19 ///  
20 ///

1 **[PROPOSED] ORDER TO MODIFY PRETRIAL CONFERENCE STATEMENT FILING**  
2 **DEADLINE FOR PLAINTIFF'S PRETRIAL CONFERENCE STATEMENT TO APRIL 2, 2009**

3 The Court having reviewed the foregoing declaration and application for order,

4 GOOD CAUSE APPEARING:

- 5 1. The application is granted.  
6 2. Plaintiff shall file her Pretrial Conference Statement on or before April 2, 2009.

7  
8  
9 Date: April 1, 2009

10 

11 WILLIAM B. SHUBB  
12 UNITED STATES DISTRICT JUDGE  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28