

1 JOHN L. BURRIS, Esq./ State Bar #69888
 BENJAMIN NISENBAUM, Esq./State Bar #222173
 2 LAW OFFICES OF JOHN L. BURRIS
 Airport Corporate Centre
 3 7677 Oakport Street, Suite 1120
 Oakland, California 94621
 Telephone: (510) 839-5200
 4 Facsimile: (510) 839-3882

5 Attorneys for Plaintiffs

6 MICHAEL J. HADDAD (State Bar No. 189114)
 JULIA SHERWIN (State Bar No. 189268)
 7 HADDAD & SHERWIN
 505 Seventeenth Street
 8 Oakland, California 94612
 Telephone: (510) 452-5500
 9 Fax: (510) 452-5510

10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**

13 JAMES TAYLOR, et. al.,) **Related Case No. C-04-4843 MHP**
 14 Plaintiffs,)
 vs.) Hon. Marilyn Hall Patel
 15 CITY OF OAKLAND, et. al.,) **STIPULATION AND**
 16 Defendants,) **(PROPOSED) ORDER TO**
 17 **CONTINUE TRIAL, PRETRIAL**
AND ALL RELATED CASES) **CONFERENCE, AND RELATED**
) **DATES**

18 JIMMY RIDER, (Case No. C-05-3204 MHP))
 19 Plaintiff,) Current Trial Date: March 3, 2009
 vs.)

20 CITY OF OAKLAND, et. al.,)
 21 Defendants,)
 22

23 DARNELL FOSTER AND CLASS MEMBERS, et.)
 al.,)
 24 Plaintiffs,)
 vs.)

25 CITY OF OAKLAND, et al.,)
 26 Defendants,)
 27 (Case No. 3:05-cv-3110 MHP))

28 **JOINT CAPTION CONTINUED ON NEXT PAGE**

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TYRONE MOORE, et al.,

Plaintiffs,

vs.

CITY OF OAKLAND, et. al.

Defendants,

(Case No. C-06-2426 MHP)

JEFFRIE MILLER, et. al.,

Plaintiffs,

vs.

CITY OF OAKLAND, et al.,

Defendants.

(Case No. C-07-1773 MHP)

WARD, et. al.,

Plaintiffs,

vs.

CITY OF OAKLAND, et al.,

Defendants.

(Case No. C-07-4179 MHP)

SMITH, et. al.,

Plaintiffs,

vs.

CITY OF OAKLAND, et al.,

Defendants.

(Case No. C-07-6298 MHP)

1 TURNER, et. al.,)
)
 2 Plaintiffs,)
)
 3 vs.)
)
 4 CITY OF OAKLAND, et al.,)
)
 5 Defendants.)
)
 6 (Case No. C-08-3114 MHP))
)

8 All parties to these related cases, by and through their respective counsel of record, hereby
 9 stipulate and jointly request this Court to continue the current trial date (March 3, 2009), Pretrial
 10 Conference date (February 19, 2009), and related deadlines, for the following reasons:
 11

12 The claims of eight Plaintiffs (Rix, Engram, Holmes, Bradshaw, Lucas, Taylor, Foster, and
 13 Young) are currently scheduled for trial on March 3, 2009. All parties have been focusing
 14 discovery efforts on these claims, however, numerous issues have delayed the completion of
 15 depositions necessary for the trial of these claims. Defendant Officer Festag, who allegedly strip
 16 searched Plaintiff Foster, has a broken jaw, his jaw has been wired shut, and he is out on medical
 17 disability leave. Plaintiffs' counsel has currently lost contact with Plaintiff Rix. Lieutenant J.
 18 Denson, who performed the Internal Affairs investigation of Plaintiff Young's sustained strip search
 19 complaint has retired and the City has not been able to produce him for deposition yet.
 20 Additionally, scheduling problems have resulted in the parties' inability to complete the depositions
 21 of several other officers and witnesses to these incidents.
 22

23 Although a significant number of depositions have been completed, the parties simply are
 24 not ready for expert disclosures in January, and will not be able to adequately prepare the
 25 substantial trial documents due by February 9, 2009.
 26

27 Further, counsel for all parties met with Judge Larson on January 12, 2009, and have
 28 scheduled three settlement conferences with Judge Larson to attempt to globally resolve all

1 damages, injunctive relief, and related claims in all of the 40 related cases. Currently settlement
2 conference dates are set for February 3, 4, and 11, 2009. The parties request time from this court to
3 attempt to settle these matters without substantially increasing costs and attorneys' fees by
4 preparing for an imminent March 3rd trial date.

5
6 Finally, Plaintiffs' counsel, Michael Haddad and Julia Sherwin were scheduled to start trial
7 in another civil rights case pending in the Eastern District before the Hon. John A. Mendez
8 (Beecham v. City of West Sacramento, No. 07-1115 JAM) on January 12, 2009, however that trial
9 was continued on January 8 due to a medical crises in the defense counsel's family. Since that case
10 is trial ready, Judge Mendez is holding March 23, 2009 for trial of the Beecham case in the event
11 this Court continues the March 3, 2009 trial date in the present cases.

12
13 Counsel for all parties in the present cases will make themselves available for a telephonic
14 conference with this Court if this Court desires more information or wishes to discuss this matter.

15
16 For these reasons, all parties respectfully request that this court vacate the pending March 3,
17 2009, trial date, the pending February 19, 2009, final pretrial date, the related discovery and pretrial
18 deadlines, and reschedule those dates as follows:

| | | |
|----|---|--|
| 18 | Close of non-expert discovery for first eight cases going to trial: | April 17, 2009 |
| 19 | Expert Disclosure: | May 1, 2009 |
| 20 | Close of expert discovery: | May 22, 2009 |
| 21 | Final Pretrial Conference: | early-June, 2009 |
| 22 | Trial: | mid-June to early-July (preferably before July 6, 2009) |

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DATED: January 15, 2009

Respectfully submitted,

OFFICE OF THE CITY ATTORNEY

By: /s/ Arlene Rosen
Attorneys for Defendants
City of Oakland, et al.

DATED: January 15, 2009

LAW OFFICES OF JOHN L. BURRIS

By: /s/ Ben Nisenbaum
Attorneys for Plaintiffs

DATED: January 15, 2009

HADDAD & SHERWIN

By: /s/ Michael J. Haddad
Attorneys for Plaintiffs

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ORDER

For these reasons stipulated by the parties, IT IS HEREBY ORDERED that the pending March 3, 2009, trial date, the pending February 19, 2009, final pretrial date, and related discovery and pretrial deadlines for the first eight cases to be tried in these related cases are VACATED.

Pretrial and Trial dates are rescheduled as follows:

| | |
|---|---------------------------------|
| Close of non-expert discovery for first eight cases going to trial: | April 17, 2009 |
| Expert Disclosure: | May 1, 2009 |
| Close of expert discovery: | May 22, 2009 |
| Final Pretrial Conference: | <u>June 17, 2009 at 2:30 pm</u> |
| Trial: | <u>June 30, 2009 at 8:30 am</u> |

DATED: 1/16/2009

