| 1<br>2<br>3<br>4<br>5<br>6<br>7<br>8<br>9<br>10<br>11 | JOHN L. BURRIS (SBN 69888)<br>BENJAMIN NISENBAUM (SBN 222173)<br>ADANTE DE POINTER (SBN 236229)<br>LAW OFFICES OF JOHN L. BURRIS<br>Airport Corporate Centre<br>7677 Oakport Street, Suite 1120<br>Oakland, California 94621<br>Telephone: (510) 839-5200<br>Facsimile: (510) 839-5200<br>Facsimile: (510) 839-3882<br>Email: John.Burris@johnburrislaw.com<br>JAMES B. CHANIN (SBN 76043)<br>JULIE M. HOUK (SBN 114968)<br>LAW OFFICES OF JAMES B. CHANIN<br>3050 Shattuck Avenue<br>Berkeley, California 94705<br>Telephone: (510) 848-4752, Ext. 2<br>Facsimile: (510) 848-5819<br>Email: jbcofc@aol.com |                                                                                              |
|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| 12                                                    | Attorneys for Plaintiffs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                              |
| 13                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 14<br>15                                              | UNITED STATES DISTRICT COURT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                              |
| 15<br>16                                              | NORTHERN DISTRICT OF CALIFORNIA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 10                                                    | TORRY SMITH, et al.,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | CASE NO.: C05-04045 EMC                                                                      |
| 18                                                    | )<br>Plaintiffs,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STIPULATION AND [PROPOSED]                                                                   |
| 19                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ORDER EXTENDING TIME FOR<br>PLAINTIFFS TO FILE MOTION FOR AN<br>AWARD OF ATTORNEYS' FEES AND |
| 20                                                    | vs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | COSTS                                                                                        |
| 21                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 22                                                    | CITY OF OAKLAND; et al.,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                              |
| 23                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 24                                                    | )<br>)<br>)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                              |
| 25                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 26                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 27                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                              |
| 28                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 1                                                                                            |
|                                                       | Smith., et al. v. City of Oakland, et al., Case No. C05-04045 EMC<br>Stipulation and [Proposed] Order Extending Time to File Motion for Attorneys' Fees                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                              |

## THE PARTIES, BY AND THROUGH THEIR RESPECTIVE COUNSEL OF RECORD DO HEREBY STIPULATE AND AGREE AS FOLLOWS:

Whereas, the parties have reached a tentative settlement of the entire action;

Whereas, there is currently a deadline to file a motion for attorneys' fees and costs on appeal in the District Court of September 14, 2010;

Whereas, the parties wish to avoid incurring additional time and expense preparing and responding to a motion for appellate fees while the parties attempt to finalize a settlement of the entire action; and,

Whereas the parties previously stipulated to an open extension of time to file a motion for the attorneys' fees and costs incurred in the District Court before the filing of the appeal and it would conserve time to file both the motions for the fees incurred in the District Court and on appeal at the same time if such motions become necessary due to any failure to finalize a settlement of the entire action,

THE PARTIES DO HEREBY STIPULATE AND AGREE THAT Plaintiffs shall have an open extension of time to file their motion for an award of attorneys' fees and costs on appeal. IT IS SO STIPULATED:

Dated: September 1, 2010

Dated: September 1, 2010

\_\_\_\_/S/\_\_\_

James B. Chanin Attorney for Plaintiffs

\_\_\_\_\_/S/\_\_\_\_ Randolph Hall Attorney for Defendants

Smith., et al. v. City of Oakland, et al., Case No. C05-04045 EMC Stipulation and [Proposed] Order Extending Time to File Motion for Attorneys' Fees 2

|          | [PROPOSED] ORDER<br>PURSUANT TO THE STIPULATION OF THE PARTIES,          |  |
|----------|--------------------------------------------------------------------------|--|
| 1        |                                                                          |  |
| 2<br>3   | PURSUANT TO THE STIPULATION OF THE PARTIES,<br>AND FOR GOOD CAUSE SHOWN, |  |
| 3<br>4   | IT IS SO ORDERED:                                                        |  |
| 5        | IT IS SO ORDERED:   Dated: 9/3   , 2010                                  |  |
| 6        | Edward N                                                                 |  |
| 7        | Magistrate<br>United Sta<br>Judge Edward M. Chen                         |  |
| 8        |                                                                          |  |
| 9        | FERN DISTRICT OF CET                                                     |  |
| 10       | SISTRIC 1                                                                |  |
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| 28       | 3                                                                        |  |
|          |                                                                          |  |
|          | Smith., et al. v. City of Oakland, et al., Case No. C05-04045 EMC        |  |

Stipulation and [Proposed] Order Extending Time to File Motion for Attorneys' Fees