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 Officer M. Novosel

17 IN THE UNITED STATES DISTRICT COURT
 18 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

21 NELSON GONZALES,

22 Plaintiff,

23 v.

24 MICHAEL NOVOSEL, et al.,

25 Defendants.

Case No. C-07-04720 CRB

~~ADMINISTRATIVE
 REQUEST FOR FURTHER
 CASE MANAGEMENT
 CONFERENCE ON
 OCTOBER 10, 2008 AND TO
 COMPEL DISCOVERY~~

ORDER

26 Come now defendants California Highway Patrol Officer M. Novosel and South San Francisco
 27 Police Officers R. Carlino, S. Curmi, A. Bordigon, J. Fukushima (hereinafter "Defendants") who
 28 submit the following Administrative Request and Proposed Order:

1 The defendants request that the Court schedule a further Case Management Conference in this
2 matter in order to seek the Court's guidance and direction to permit defendants to complete the
3 Independent Medical Examinations of plaintiff and have meaningful depositions of plaintiff's
4 expert(s) before trial. Trial in this case is set for October 20, 2008.

5 The defendants, with the apparent cooperation of plaintiff, have been working diligently to
6 complete a psychiatric IME of the plaintiff on dates that accommodate all parties, counsel, and the
7 doctors. However, plaintiff's counsel have rescheduled the psychological examination multiple
8 times, representing that plaintiff was unexpectedly unable to attend or to complete the sessions due
9 to a variety of health problems, including nausea, dental pain, and bed sores. The examinations were
10 canceled within minutes before they were set to begin.

11 The parties had agreed to exchange expert reports on October 3, 2008, and have most recently
12 agreed to postpone simultaneous exchange of the remaining reports to October 10, 2008. But as of
13 today's date, plaintiff has not completed even the psychiatric testing with defendants' psychologist,
14 Ronald Roberts, Ph.D., a necessary preliminary to his examination by the defense psychiatric expert,
15 Emily Keram, M.D. Plaintiff has canceled *three* appointments with Dr. Roberts at the last minute
16 and has therefore not been examined by the State's expert, Dr. Keram (all of the appointments with
17 Dr. Keram were canceled). The psychiatric issues are particularly significant to this trial because
18 the plaintiff contends that he has amnesia as to certain, but not all, of the events at issue. The
19 defense experts also should have an opportunity to examine the plaintiff and consider his deposition
20 testimony in relation to issues of "suicide by cop," the effects of intoxicants, and substance abuse.
21 In addition, the psychiatric and psychological issues are salient to the plaintiff's damages contentions
22 as he alleges substantial expense for mental health treatment for post-traumatic stress disorder,
23 clinical depression, and flash-backs.

24 Plaintiff's deposition was completed only two days ago (on October 1) following multiple
25 cancellations and the Court's denial of his application for an order that he be deposed on "four-hour
26 stand-by" at his home. The defense experts have not received transcripts of this week's deposition
27 sessions, which have been ordered on an expedited basis. The defense experts should have an
28 opportunity to review the complete deposition before finalizing their reports. The defendants have

1 been deprived of the opportunity to complete their expert witness preparation and reports as of this
2 date. Further, defendants to date have received only two of the plaintiff's experts' reports, both
3 dealing with damages, and will not have the opportunity to assess the plaintiff's contentions or
4 depose any of his experts until less than ten business days before trial is to begin.

5 Based on these facts, the defendants respectfully request that on October 10, 2008, at ~~10:30~~ 10:00
6 a.m., following the Summary Judgment hearing in this case, the Court conduct a further Case
7 Management Conference to provide guidance on the conduct of expert discovery and such related
8 matters as the Court may find appropriate.

9 Dated: October 3, 2008.

10 Respectfully submitted,

11 /s/ Tricia L. Hynes
12 Tricia L. Hynes, Esq.

13 Attorney for Defendants Officer Ron Carlino, Officer Sean
14 Curmi, Officer Anthony Bordigon and Officer Jason Fukushima

15 EDMUND G. BROWN JR.
16 Attorney General of the State of California

17 /s/ John P. Devine
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19 Deputy Attorney General

20 Attorneys for Defendant California Highway Patrol Officer
21 Michael Novosel
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~~[Proposed]~~ ORDER

IT IS SO ORDERED

Dated: october 06 , 2008

Charles R. Breyer
United States District Judge

