

1 ZACH COWAN, Acting City Attorney SBN 96372
 SARAH REYNOSO, Acting Assistant City Attorney SBN 120277
 2 SReynoso@ci.berkeley.ca.us
 MARK J. ZEMBSCH, Deputy City Attorney SBN 127901
 3 KRISTY van HERICK, Deputy City Attorney SBN 178685
 2180 Milvia Street, Fourth Floor
 4 Berkeley, CA 94704
 TEL.: (510) 981-6950
 5 FAX.: (510) 981-6960

6 Attorneys for Defendants
 CITY OF BERKELEY; RICKY DAVIS;
 7 ROGELIO MARQUINA and JOSEPH AYANKOYA

8 DAVID M. POORE SBN 192541
 KAHN BROWN & POORE LLP
 9 DPoore@kahnbrownlaw.com
 110 Kentucky Street
 10 Petaluma, CA 94952
 TEL: (707) 763-7100
 11 FAX: (707) 763-7180

12 Attorneys for Plaintiffs
 LADANIEL KEY; JIMMY SMITH; JOHNNY
 13 TOLLIVER; LOUIS JERNIGAN; MELVIN PONDER;
 EDDIE PERCOATS and TAY WOODS
 14

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17

18 LADANIEL KEY; JIMMY SMITH,;
 19 JOHNNY TOLLIVER; LOUIS JERNIGAN;
 MELVIN PONDER; EDDIE PERCOATS;
 20 TAY WOODS,

21 Plaintiffs,

22 vs.

23 CITY OF BERKELEY, RICKY DAVIS;
 ROGELIO MARQUINA; JOSEPH
 ANACOYA,
 24

25 Defendants.

NO. C08-04896 MHP

**STIPULATION AND PROPOSED
 ORDER TO CONTINUE THE INITIAL
 CASE MANAGEMENT CONFERENCE**

DATE: February 2, 2009
TIME: 4:00 p.m.
CTRM: 15, 18th Floor
San Francisco

26
 27 IT IS HEREBY STIPULATED by and between the parties to continue the
 28 presently scheduled Initial Case Management Conference date from February 2, 2009, to a new

STIPULATION AND PROPOSED ORDER TO CONTINUE THE INITIAL CASE MANAGEMENT
 CONFERENCE

KEY v. CITY OF BERKELEY, NO. C08-04896 MHP

1 date and time that is convenient to the Court and the parties with the exception of February 13
2 through 20 as the attorneys have other conflicts during this period. The parties understand that
3 the following dates are available which work within the parties' respective calendars: February
4 23, and March 2, 9, 16 and 23. The parties are willing to participate in a telephone conference
5 with the Court, as necessary, to select new dates and times.

6 The parties are submitting this request in the above entitled case and all other related
7 cases. There is good cause for the stipulation to extend time as follows:

- 8 • Unavailability of Lead Trial Counsel: The primary purpose of this request is the
9 unavailability of lead trial counsel for the plaintiffs. In particular, plaintiffs' lead trial
10 counsel, David M. Poore, has been scheduled for a significant discovery and status
11 hearing in the nationwide class action entitled *Stalaker v. Allstate Insurance Company,*
12 *et. al.* Case No. 04 CV 2628 which is pending before the District Court, El Paso County,
13 State of Colorado, located in Colorado Springs, Colorado. Given this conflict, it would
14 be impossible for plaintiffs' lead trial counsel to attend both hearings as plaintiffs'
15 counsel is required to travel to Colorado Springs. The parties stipulate and agree that
16 this trial conflict constitutes good cause to continue this matter.
- 17 • No Prior Trial Continuance Requests: The parties have not made any prior requests for a
18 continuance of the Initial Case Management Conference in this matter.
- 19 • Judicial Economy and No Prejudice: The parties are not making this request for any
20 improper purpose, including undue delay. Instead, the parties agree that judicial
21 economy will be served if this request is granted. In particular, it is crucial that
22 plaintiffs' lead trial counsel attend and participate in the Initial Case Management
23 Conference. Moreover, neither party would suffer any prejudice if the trial date was
24 continued; instead, the parties have stipulated to this request.

24 ///

25 ///

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SO STIPULATED.

Respectfully submitted:

ZACH COWAN, Acting City Attorney
SARAH REYNOSO, Acting Assistant City Attorney
MARK J. ZEMBSCH, Deputy City Attorney
KRISTY van HERICK, Deputy City Attorney

Dated: January 26, 2009.

By: _____ /s/

MARK J. ZEMBSCH, Deputy City Attorney
Attorneys for City of Berkeley; Ricky Davis;
Rogelio Marquina and Joseph Ayankoya

Respectfully submitted:

KAHN BROWN & POORE LLP

Dated: January 26, 2009.

By: _____ /s/

DAVID M. POORE
Attorney for Plaintiffs LaDaniel Key; Jimmy Smith;
Johnny Tolliver; Louis Jernigan; Melvin Ponder;
Eddie Percoats and Tay Woods

ORDER

THE COURT HEREBY ORDERS AS FOLLOWS:

The parties' request to continue the Initial Case Management Conference is hereby GRANTED. The presently set Case Management Conference on February 2, 2009, is hereby VACATED. The parties are ordered to appear at an Initial Case Management Conference on March 23, 2009, at 4:00 a.m./p.m. to set a trial date and new deadlines.

IT IS SO ORDERED.

