

1 JAMERSON C. ALLEN (State Bar No. 132866)
 2 CORTNEY L. MCDEVITT (State Bar No. 241879)
 3 JACKSON LEWIS LLP
 199 Fremont Street, 10th Floor
 4 San Francisco, CA 94105
 Telephone 415.394.9400
 Facsimile: 415.394.9401

5 Attorneys for Defendant
 6 HILTON HOTELS CORPORATION

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 DOANE ATWOOD, individually and on behalf
 12 of Class of Persons similarly situated,

13 Plaintiffs,

14 v.

15 CITY OF SAN RAFAEL, CHIEF MATTHEW
 16 ODETTO, OFFICER ROLEGIO LEON,
 17 OFFICER ROBERT HENKEL, OFFICER
 RICHARD CLARY, OFFICER AARON
 PIOMBO, EMBASSY SUITES HOTEL, and
 DOES I through X, inclusive,

18 Defendants.

Case No. CV 08 5002 EMC

**STIPULATION AND [PROPOSED]
 ORDER EXTENDING TIME FOR
 ALL DEFENDANTS TO RESPOND
 TO PLAINTIFF'S COMPLAINT**

19
 20 **RECITALS**

21 **WHEREAS**, Plaintiff DOANE ATWOOD ("Plaintiff") filed this action against
 22 defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER ROLEGIO
 23 LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER AARON
 24 PIOMBO AND HILTON HOTEL CORPORATION (erroneously sued as "Embassy Suites
 25 Hotel") ("Defendants") on or about November 3, 2008;

26 **WHEREAS**, Plaintiff requested Defendant HILTON HOTELS CORPORATION waive
 27 formal service on or about November 25, 2008 by mailing a copy of the Complaint and waiver of
 28

1 service to counsel for Defendant HILTON HOTELS CORPORATION;

2 **WHEREAS**, Defendant HILTON HOTEL CORPORATION’S responsive pleading to the
3 Complaint is due on or about January 24, 2009;

4 **WHEREAS**, Defendants and CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO,
5 OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY,
6 and OFFICER AARON PIOMBO have not yet been served with the Complaint;

7 **WHEREAS**, the Parties have agreed to attend mediation before the Honorable Charles A.
8 Legg (Ret.) prior to Defendants filing responsive pleadings in this matter;

9 **WHEREAS**, there have been no prior time modifications in this matter; and

10 **WHEREAS**, the change requested herein would require continuance of the Initial Case
11 Management Conference, currently set for January 21, 2009, and related deadlines:

12 **AGREEMENT**

13 Pursuant to Civil Local Rule 6-2, the parties hereby stipulate as follows:

14 Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER
15 ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER
16 AARON PIOMBO AND HILTON HOTEL CORPORATION will provide Plaintiff DOANE
17 ATWOOD with a waiver of formal service of the Summons and Complaint by January 15, 2009.

18 The Parties will Mediate this matter before Honorable Charles A. Legg (Ret.) by
19 March 15, 2009.

20 If Mediation is unsuccessful, Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW
21 ODETTO, OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD
22 CLARY, OFFICER AARON PIOMBO AND HILTON HOTEL CORPORATION respond to
23 Plaintiff DOANE ATWOOD’S Complaint by March 30, 2009.

24 The Initial Case Management Conference, currently set for January 21, 2009, will be
25 continued according to this Court’s timeline.

26 ///

27 ///

28

1 In so stipulating, Defendants expressly reserve their rights to object to the jurisdiction of
2 a Magistrate Judge, and request reassignment to a District Judge.

3
4 Respectfully submitted,

5
6 Date: January __, 2009

BRUCE NICKERSON

7
8 By _____

9 Bruce W. Nickerson
10 Attorney for Plaintiff
DOANE ATWOOD

11
12 Date: January __, 2009

JACKSON LEWIS, LLP

13
14 By _____

15 Jamerson C. Allen
16 Cortney L. McDevitt
17 Attorneys for Defendant
HILTON HOTELS CORPORATION

18 Dated: January 6, 2009

BERTRAND, FOX, & ELLIOT

19
20 By  _____

21 Tom Bertrand
22 Attorney for Defendants
23 CITY OF SAN RAFAEL, CHIEF
24 MATTHEW ODETTO, OFFICER
25 ROLEGIO LEON, OFFICER
26 ROBERT HENKEL, OFFICER
27 RICHARD CLARY, and OFFICER
28 AARON PIOMBO

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

In so stipulating, Defendants expressly reserve their rights not to consent to the jurisdiction of a Magistrate Judge, and request reassignment to a District Judge.

Respectfully submitted,

Date: January 7, 2009

BRUCE NICKERSON

By Bruce W Nickerson

Bruce W. Nickerson
Attorney for Plaintiff
DOANE ATWOOD

Date: January 9, 2009

JACKSON LEWIS LLP

By Jamerson C. Allen

Jamerson C. Allen
Cortney L. McDevitt
Attorneys for Defendant
HILTON HOTELS CORPORATION

Dated: January 7, 2009

BERTRAND, FOX & ELLIOT

By _____

Tom Bertrand
Attorney for Defendants
CITY OF SAN RAFAEL, CHIEF
MATTHEW ODETTO, OFFICER
ROLEGIO LEON, OFFICER
ROBERT HENKEL, OFFICER
RICHARD CLARY, and OFFICER
AARON PIOMBO

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

PROPOSED ORDER

Based on the foregoing, and good cause so appearing, the Court hereby orders:

1. Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER AARON PIOMBO AND HILTON HOTEL CORPORATION will provide Plaintiff DOANE ATWOOD with a waiver of formal service of the Summons and Complaint by January 15, 2009.

2. The Parties will Mediate this matter before Honorable Charles A. Legg (Ret.) by March 15, 2009.

3. If Mediation is unsuccessful, Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER AARON PIOMBO AND HILTON HOTEL CORPORATION respond to Plaintiff DOANE ATWOOD'S Complaint by March 30, 2009.

4. The Initial Case Management Conference, currently set for January 21, 2009, is hereby continued to April 15, 2009 at 1:30 p.m. A Joint CMC statement is due April 8, 2009.

5. The dates set forth in this Court's Order Setting Initial Case Management Conference and ADR Deadlines are continued accordingly.

6. Defendants' rights to object to the jurisdiction of the Magistrate Judge and request reassignment to a District Judge are reserved.

IT IS SO ORDERED.

DATED: January 13, 2009

