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 & SANDRA BITTON

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA

18 JEFFREY BITTON, MICHA BITTON AND  
 SANDRA BITTON,

19 Plaintiffs,  
 20  
 21 vs.

22 CITY AND COUNTY OF SAN  
 FRANCISCO, a municipal entity, SAN  
 FRANCISCO POLICE DEPARTMENT  
 23 CAPTAIN DAVID LAZAR, POLICE  
 OFFICER BURKE (SFPD BADGE NO.  
 24 2240), POLICE OFFICER BRENT  
 BRADFORD (SFPD BADGE NO. 4199),  
 25 POLICE OFFICER NG (SFPD BADGE NO.  
 338), POLICE OFFICER DOWKY (SFPD  
 26 BADGE NO. 799), POLICE OFFICER  
 MARON (SFPD BADGE NO. 1929), POLICE  
 27 OFFICER NEWBECK (SFPD BADGE NO.  
 1691), POLICE OFFICER PAPALE (SFPD  
 28 BADGE NO. 642), POLICE OFFICER

Case No. C08-5585 MMC

**SECOND JOINT ADMINISTRATIVE  
 MOTION TO EXTEND JURISDICTION OF  
 ENE EVALUATOR IN ORDER TO CONDUCT  
 ENE HEARING; ~~PROPOSED~~ ORDER  
 [STIPULATED]  
 [CIVIL L.R. 7-11]**

1 JONES (SFPD BADGE NO. 852), POLICE  
2 OFFICER GARDEN (SFPD BADGE NO.  
3 404), POLICE OFFICER MCKINNEY (SFPD  
4 BADGE NO. 4), POLICE OFFICER  
5 LIBERTA (SFPD BADGE NO. 682), and  
6 DOES 1-100,

7 Defendants.

8 Pursuant to Local Rule 7-11 and ADR L.R. 5-4(b), the parties jointly file this stipulated  
9 Administrative Motion to extend the jurisdictional time of the evaluator in order to conduct an ENE  
10 Hearing.

### 11 **BACKGROUND**

12 This is a civil rights action brought by the Jeffrey Bitton, Micha Bitton and Sandra Bitton  
13 against individual San Francisco police officers and the City and County of San Francisco. Plaintiffs  
14 contend that the Defendants violated their Fourth Amendment rights by making an illegal arrest, an  
15 unlawful entry into their home and using unlawful force, while the Defendants maintain that they had  
16 probable cause to arrest, that exigent circumstances justified a warrantless entry, and that any force  
17 used was lawful.

18 The parties and the Court's ADR coordinator engaged in a teleconference regarding the timing  
19 of the ENE Hearing, the form of mandatory ADR selected by the parties. Following the conference,  
20 the Court appointed Charles E. Farnsworth as the ENE Evaluator and set the hearing for June 11,  
21 2009.

22 Due to conflicting schedules of the parties and evaluator, and the evaluator's extended vacation  
23 plan, the parties were unable to conduct the hearing. Further, defense counsel had a family medical  
24 emergency during that time that hampered scheduling of the matter. A subsequent hearing could not  
25 be rescheduled within the 90-day time limit prescribed by ADR Local Rules for conducting such  
26 hearing.

27 On September 8, 2009, a further ADR phone conference was conducted, at which time the  
28 ADR coordinator recommended that the parties file a joint administrative motion seeking an extension  
of the ENE Evaluator's jurisdiction so that ADR efforts could ensue. The court extended the ENE

1 jurisdiction for an additional 60 days. In the ensuing 60 days, the parties attempted to schedule an  
2 ENE with the evaluator, but could not. In this same period of time, the parties consulted with the  
3 ADR administrator regarding the difficulty of scheduling an ENE with the evaluator then assigned.

4 Due to issues and reasons unknown to the parties the ADR administrator recommended that the  
5 parties use a different evaluator. The parties agreed, and on or about November 24, 2009, the Court  
6 appointed another ENE evaluator, Patrick Robbins. The appointment was almost at the end of the  
7 ENE jurisdiction. On December 2, 2009, the parties held their joint phone conference with the new  
8 evaluator and all agreed to moved the court for a further extension of time to conduct the ENE.

9 Accordingly, the parties file this joint motion and request an extension of time to conduct an  
10 ENE until January 31, 2010. The parties and evaluator have tentatively scheduled January 20, 2010  
11 for an ENE conference. Fact discovery closes January 29, 2010. In the event that the case does not  
12 resolve at the ENE, the parties will also request by a separate stipulation a 58-day extension of all the  
13 deadlines in this case. That would be the first such request and the parties do not anticipate making any  
14 other requests for additional time.

15 Dated: December 15, 2009

16 DENNIS J. HERRERA  
17 City Attorney  
18 JOANNE HOEPER  
19 Chief Trial Deputy

20 By: s/Sean Connolly  
21 SEAN F. CONNOLLY  
22 Deputy City Attorney

23 Attorneys for Defendants CITY AND COUNTY OF  
24 SAN FRANCISCO, et al.

25 Dated: December 15, 2009

26 BRENT & FIOL, LLP

27 By: s/Joseph Brent  
28 JOSEPH P. BRENT, ESQ.  
DAVID LEE FIOL, ESQ.

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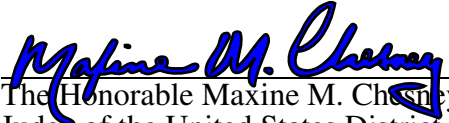
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**ORDER**

Pursuant to stipulation, it is so Ordered that ENE Evaluator Patrick Robbins' jurisdiction to complete the early neutral evaluation be extended until January 29, 2010. ~~The Court also extends the deadline for fact discovery to and including March 26, 2010.~~

The Court makes no determination herein with respect to any request to extend the pretrial deadlines.

Date: December 17, 2009

  
\_\_\_\_\_  
The Honorable Maxine M. Chesney  
Judge of the United States District Court