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 And OFFICER GARTH BENDER

11 UNITED STATES DISTRICT COURT
 12
 13 NORTHERN DISTRICT OF CALIFORNIA

14 LUZ HERNANDEZ,
 15 Plaintiff,
 16 vs.
 17 CITY OF NAPA, et al.,
 18 Defendants.

Case No.: C09-2782 EDL

**STIPULATION AND ~~PROPOSED~~ ORDER
 CONTINUING THE HEARING DATE FOR
 DEFENDANTS CITY OF NAPA, POLICE
 CHIEF RICHARD MELTON And OFFICER
 GARTH BENDER'S MOTION FOR
 SUMMARY JUDGMENT, JOINDER BY
 DEFENDANT HALLMAN and RELATED
 DISCOVERY, PRETRIAL, and TRIAL
 MATTERS AS MODIFIED**

21 Following the July 20th hearing on the City of Napa's Motion to Bifurcate Monell Discovery
 22 and Trial, and Plaintiff's Discovery Motion to Compel, it was ordered by the Court that the parties
 23 meet and confer on a cooperative discovery plan including Monell discovery and plaintiff's damages
 24 claims. The parties agreed on a cooperative discovery plan and discovery has continued based on
 25 that cooperative agreement. The parties continue to meet and confer on completion of this fact
 26 discovery. In addition the parties have been working with the Deputy Attorney General of the State
 27 of California representing plaintiff's employer Napa State Hospital on production of plaintiff's
 28 personnel file and documents relevant to her wage loss claims. This discovery has not been

1 completed but the parties are cooperating and depositions of Napa State Hospital persons most
 2 knowledgeable may be necessary. Additionally, Mr. Fox, counsel for defendants in the above
 3 captioned matter, completed on November 9, 2010 a jury trial in Alameda County Superior Court,
 4 Department 607, Fremont, California that commenced October 1, 2010 (in recess October 13
 5 through October 15) (*Dunn v. City of Fremont*, Case No. RG08415820). Plaintiff's counsel has also
 6 been involved in three criminal trials during this time period and was out of the state during early
 7 November, 2010.

8 Because necessary critical fact discovery, including Monell discovery, has not been
 9 completed all of the parties have agreed and HEREBY STIPULATE, through their respective
 10 undersigned attorneys of record, that the date for the hearing on the defendants CITY OF NAPA,
 11 POLICE CHIEF RICHARD MELTON And OFFICER GARTH BENDER's Motion for Summary
 12 Judgment, and the joinder in the Motion by Defendant Hallman, be continued from November 16,
 13 2010 to January 25, 2011 (or that date convenient for the Court) The parties continue to cooperate on
 14 discovery matters, including fact witness depositions and related matters, but need additional time to
 15 complete this discovery. An extension of the discovery schedule as it pertains only to plaintiff and
 16 the City of Napa defendants, including expert discovery and related discovery practice, will allow
 17 the plaintiff and City of Napa defendants time to complete the outstanding discovery, prepare their
 18 experts, make expert disclosure and complete the briefing on the City's motion for summary
 19 judgment on terms that are fair and reasonable to both sides. It is the position of defendant Hallman
 20 that discovery and expert discovery as it pertains to plaintiff and defendant Hallman is closed. This
 21 revised schedule also changes the pretrial conference and trial dates to allow sufficient time between
 22 the hearing on MSJ and pretrial conference date. In the alternative the parties ask for a trial setting
 23 conference at the conclusion of the hearing on the MSJ.

24 The parties therefore agree and stipulate to the following schedule and, if the Summary
 25 Judgment hearing date is convenient for the Court, for an Order granting the stipulation be entered:

26	November 12, 2010	Last day to efile Motion for Summary Judgment
27	January 4, 2011	Last day to efile Opposition to Motion for Summary Judgment

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January 11, 2011 Last day to efile Reply in support of Motion for Summary Judgment
January 25, 2011 Hearing date of defendants' Motion for Summary Judgment
January 28, 2011 Expert Disclosure between plaintiff and Napa defendants.
February 25, 2011 Close of Expert disclosure between plaintiff and Napa defendants.
March 29, 2010 **Pretrial Conference**
~~**April 11, 2011**~~ **Trial** (at the court's convenience)
APRIL 18, 2011

Plaintiff also dismisses with prejudice her claims of unreasonable force during her handcuffing against all defendants.

So Stipulated.

Dated: December 2, 2010

LAW OFFICES OF TIM A. PORI

By: _____/s/
TIM A. PORI
Attorneys for Plaintiff LUZ HERNANDEZ

Dated: December 2, 2010

MEYERS NAVE RIBACK SILVER & WILSON

By: _____/s/
KEVIN E. GILBERT
Attorneys for Defendant JOHN HALLMAN

Dated: December 2, 2010

BERTRAND, FOX & ELLIOT

By: _____/s/
GREGORY M. FOX
Attorneys for Defendants
CITY OF NAPA, RICHARD MELTON, and
GARTH BENDER

ATTORNEY ATTESTATION

I hereby attest that I have on file all holograph signatures for any signatures indicated by a conformed signature (“/s/”) within this E-filed document.

Dated: _December 2, 2010

_____/s/_____
Gregory M. Fox

ORDER

Good cause appearing,

THE STIPULATION IS SO ORDERED

Dated: __December __6__, 2010

Elizabeth D. Laporte

Honorable Elizabeth D. Laporte
UNITED STATES MAGISTRATE JUDGE