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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 DAN HARTMANN,

16 Plaintiff,

Case No. CV-09-3227 WHA

17 v.

NOTICE OF CLARIFICATION AND  
STIPULATION AND ~~PROPOSED~~ ORDER  
TO CONTINUE DECEMBER 3, 2009  
CASE MANAGEMENT CONFERENCE

18 CHRISTIAN HANSON, et al.,

19 Defendants.

20 Pursuant to the duty to promptly correct misstatements to the Court, federal defendant

21 Christian Hanson hereby specially appears in this action for the sole and limited purpose of filing

22 this Notice of Clarification and Stipulation and Proposed Order to Continue December 3, 2009

23 Case Management Conference.

24 NOTICE OF CLARIFICATION

25 Due to an unintentional mistake in the editing of the Stipulation and Proposed Order to

26 Continue Initial Case Management Conference, that pleading erroneously stated: "Once the

27 United States Department of Justice approves the request for representation, AUSA Scharf will

1 promptly file an answer and make the require initial disclosures on behalf of the federal  
2 defendants.” That sentence should have read: “Once the United States Department of Justice  
3 approves the request for representation, AUSA Scharf will promptly respond to the complaint on  
4 behalf of the federal defendant Hanson” as the following sentence in the pleading makes clear.  
5 Counsel for plaintiff has acknowledged the unintentional error.  
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7 By way of further update, the United States Department of Justice has now authorized  
8 AUSA Scharf to represent federal defendant Hanson in this action. However, federal defendant  
9 Hanson has still not been properly served pursuant to FRCP 4, which also requires service on the  
10 Office of the United States Attorney. As a professional courtesy, AUSA Scharf has agreed to  
11 accept service on his office by mail and the parties expect this to be accomplished soon.  
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13 After federal defendant Hanson has been properly served, AUSA Scharf intends to  
14 respond to the complaint by filing a motion to dismiss or, in the alternative, a motion for summary  
15 judgment, raising the defense of qualified immunity. AUSA Scharf intends to notice that motion  
16 for hearing on January 7, 2010. In connection with that motion, AUSA Scharf intends to ask the  
17 Court to stay discovery (including initial disclosures) pending adjudication of that motion. *See*  
18 *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982) (“[u]ntil this threshold immunity question is  
19 resolved, discovery should not be allowed.”); *accord Crawford-El v. Britton*, 523 U.S. 574, 598  
20 (when defendants plead an immunity defense, “the district court should resolve that threshold  
21 question before permitting discovery”).  
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