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 5 JOSEPH ALEJANDRO ORTEGA

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 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

10 JOSEPH ALEJANDRO ORTEGA,)
)
 11 Plaintiff,)
)
 12 vs.)
)
 13 KURT RODENSPIEL, *et al*,)
)
 14 Defendants.)
)
 15 _____)

No. CV 10-3239 EMC

**STIPULATION FOR ORDER STAYING
 INITIAL CASE MANAGEMENT
 CONFERENCE, ADR AND OTHER
 DEADLINES**
 (*Proposed*) ORDER

Current Hg./CMC Date: 11/3/10
 Pretrial/Trial Dates: Not Set
 CTRM: C, Hon. Edward M. Chen

16 **STIPULATION**

17 The parties hereby represent to the Court and stipulate as follows:

- 18 1. On July 23, 2010, plaintiff filed his Complaint herein for damages resulting from
 19 violation of plaintiff's civil rights under 42 U.S.C. § 1983, coupled with tort causes of action under
 20 California law for negligence, assault and battery, negligent training and supervision, negligent
 21 infliction of emotional distress and for civil rights violations under California Civil Code section
 22 52.1. The defendants are the San Mateo Police Department, the City of San Mateo and San
 23 Mateo Police Department Officer Kurt Rodenspiel. (Hereafter all dates are in 2010.)
- 24 2. All defendants accepted service and on August 18, they filed an Answer.
- 25 3. The Court's Order Setting Initial Case Management Conference and ADR Deadlines
 26 issued July 23, setting October 13 for the meet and confer re initial disclosures, early settlement,
 27 ADR process selection and a discovery plan, to file the ADR Certification and either file a
 28 Stipulation to ADR process or a Notice for an ADR Phone Conference; October 27 as the last day

1 for the FRCP Rule 26(f) Report, to complete the initial disclosures and file a Case Management
2 Statement; and, November 3, for the Initial Case Management Conference.

3 4. Arising from the incident which is the basis for this civil action, Plaintiff was charged
4 with felony offenses against two San Mateo Police Officers for assault with a deadly weapon under
5 California Penal Code section 245 in the San Mateo County Superior Court, in action titled *People*
6 *v. Joseph Alejandro Ortega*, No. SC071032. The trial in this criminal case is currently set for
7 November 1.

8 5. Counsel for the parties have discussed this case and would like to postpone all dates set
9 by the Court on July 23 until the conclusion of the criminal case. Both counsel believe that the
10 outcome of the criminal case will have a significant bearing on how this civil action proceeds,
11 liability, discovery, ADR, and other pertinent aspects of pretrial proceedings and preparation for
12 trial. Both counsel believe that it is premature to address the matters required by this Court's July
13 23 Order until the criminal case is resolved, and also believe that discovery should proceed
14 pursuant to the criminal statutes instead of this civil action in order to avoid conflicts.

15 6. Therefore, it is requested that the Court stay the setting of Case Schedule dates and
16 deadlines until the conclusion of the criminal action. Plaintiff's counsel will immediately notify the
17 Court and defense counsel when the criminal case finally concludes.

18 DATED: September 11, 2010

/s/ Geoffrey Rotwein
GEOFFREY ROTWEIN
Attorney for Plaintiff
JOSEPH ALEJANDRO ORTEGA

/s/ Jeffrey M. Vucinich
JEFFREY M. VUCINICH
Attorney for Defendants
KURT RODENSPIEL, CITY OF
SAN MATEO, SAN MATEO POLICE DEPARTMENT

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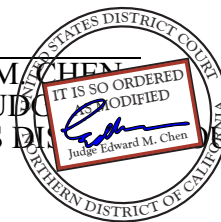
ORDER

Pursuant to the above Stipulation by and between the parties, and good appearing therefor:

IT IS HEREBY ORDERED that the various present case management, ADR and discovery deadlines and dates set by this Court in its July 23, 2010 Order, are stayed until conclusion of the criminal case in the San Mateo County Superior Court, in action titled *People v. Joseph Alejandro Ortega*, No. SC071032. Plaintiff's counsel is ordered to advise this Court and defense counsel when the criminal case resolves so that new dates can be reset by the Court *

DATED: September 15, 2010

HON. EDWARD M. CHEN
MAGISTRATE/JUDGE
UNITED STATES DISTRICT COURT



*that the Case Management Conference is set for December 22, 2010 at 1:30 p.m. A joint cmc statement shall be filed by December 15, 2010.