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15 Attorneys for Plaintiff  
 16 TIMOTHY GARDNER

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA

19 TIMOTHY GARDNER,

20 Plaintiff,

21 vs.

22 CITY OF BERKELEY, DAVID HODGKINS;  
 23 DOUG HAMBLETON; ROY MEISNER;  
 24 BOBBY MILLER,

25 Defendants.

NO. C10-03410 EMC

**STIPULATION AND [PROPOSED]  
 ORDER TO EXTEND DATE FOR  
 SUMMARY JUDGMENT HEARING  
 AND BRIEFING; AND CONTINUE  
 CASE MANAGEMENT CONFERENCE**

Complaint Filed: June 25, 2010  
 Removed to Federal Court: Aug. 3, 2010

**STIPULATION**

The parties hereby stipulate through their undersigned counsel that the **non-expert  
 discovery cut-off be extended as follows:**

1 The City will depose Plaintiff on October 14, 2011. Plaintiff may depose the following  
2 five witnesses, beginning October 17, 2011: David Hodgkins, Doug Hambleton, Dave Frankel,  
3 Eric Gustafson and Jen Louis.

4 The parties also hereby stipulate through their undersigned counsel that the **expert**  
5 **discovery cut-off be extended as follows:**

6 November 7, 2011: Expert's opening reports

7 November 21, 2011: Rebuttal reports

8 December 5, 2011: Expert discovery cut-off.

9 The parties also stipulate that the hearing for the **Motion for Summary Judgment and the**  
10 **Case Management Conference be continued from December 2, 2011 to December 16, 2011.**

23  
at 1:30 p.m.

11 Parties propose the following briefing schedule:

12 November 16, 2011: Defendant's Summary Judgment Motion Filed

13 November 30, 2011: Plaintiff's Opposition to Summary Judgment Motion Filed

14 December 7, 2011: Defendant's Reply to Summary Judgment Motion Filed

15 **GOOD CAUSE EXISTS** for the stipulation to extend time as follows: Plaintiff's counsel  
16 was substituted in less than one week prior to the original discovery cut-off. Plaintiff's previous  
17 counsel had failed to comply with Defendant's discovery requests, requests that were necessary for  
18 an efficient deposition of plaintiff. Further, Plaintiff's previous counsel had failed to properly notice  
19 any depositions prior to the original discovery cut-off. Allowing for limited depositions to be taken  
20 after the discovery cut-off; a short extension of expert discovery; and a two-week continuance of the  
21 hearing on the motion for summary judgment (with a modified briefing schedule) promotes the  
22 interests of justice and will result in no prejudice to any party.

23 Respectfully submitted:

24 ZACH COWAN, City Attorney  
25 MARK J. ZEMBSCH, Deputy City Attorney

26 Dated: October 7, 2011

27 By: \_\_\_\_\_ /s/  
28 MARK J. ZEMBSCH, Deputy City Attorney  
Attorneys for City of Berkeley and David Hodgkins

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Respectfully submitted:

BURNS, SCHALDENBRAND & RODRIGUEZ

Dated: October 7, 2011

By: \_\_\_\_\_ /s/ \_\_\_\_\_

EDWARD W. BURNS  
Attorney for Plaintiff Timothy Gardner

THE FOREGOING STIPULATION  
IS APPROVED AND IS SO ORDERED. (as amended)

DATE: \_\_\_\_\_ 10/12/11 \_\_\_\_\_

