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 8 Attorneys for Defendants
 CITY AND COUNTY OF SAN FRANCISCO;
 9 SAN FRANCISCO POLICE SERGEANT R. COX;
 SAN FRANCISCO POLICE SERGEANT J. O'MALLEY

10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 DANILO MARTIN MOLIERI, AND
 DANIEL STEVEN MOLIERI,

14 Plaintiffs,

15 vs.

16 COUNTY OF MARIN, Marin County Sheriff's
 17 Sergeant J. SCARDINA, Sheriff's Deputy
 ERIC RICHARDSON, Sheriff's Deputy
 18 BONDANZA; CITY AND COUNTY OF
 SAN FRANCISCO, San Francisco Police
 19 Sergeant R. COX; San Francisco Police
 Sergeant J. O'MALLEY; and DOES 1-25,
 20 inclusive

21 Defendants.

Case No. CV 10 5430 MMC

**STIPULATION TO CONTINUE PRE-TRIAL
 AND TRIAL DATES; ~~PROPOSED~~ ORDER**

Trial Date: December 12, 2012

22
 23 **STIPULATION**

24 Pursuant to Local Rule 7-12, Defendants City and County of San Francisco, San Francisco
 25 Police Sergeant R. Cox, San Francisco Police Sergeant J. O'Malley (the "San Francisco Defendants"),
 26 the County of Marin, Marin County Sheriff's Sergeant J. Scardina, Sheriff's Deputy Eric Richardson,
 27 Sheriff's Deputy Bondanza (the "Marin Defendants"), and Plaintiffs Danilo Molieri and Daniel Molieri
 28 stipulate and jointly request continuance of the trial date based on the following:

1 1. Trial for this matter is set for December 3, 2012. Pretrial preparation will begin this
2 week, with the parties required to meet and confer on Pre-trial Statements by October 9, 2012.

3 2. Plaintiffs' complaint alleges **intertwined** causes of action arising from the conduct of
4 the Marin and San Francisco defendants regarding the same December 2009 domestic violence
5 incident.

6 3. The parties filed motions for summary judgment and summary adjudication of issues
7 and are awaiting the Court's ruling on the San Francisco Defendant's motion for reconsideration. The
8 outcome of the Court's ruling will have a substantial impact on the remainder of the case and the trial.

9 4. Whatever the outcome of the Court's ruling on the motion for reconsideration, the
10 losing party – whether the San Francisco Defendants or Plaintiffs – would likely file a notice of
11 appeal. An interlocutory appeal would divest this Court of jurisdiction over some of the San Francisco
12 Defendants. Alternatively, Plaintiff's appeal of a final judgment would leave open the possibility that
13 the San Francisco Defendants would proceed through the appellate process only to be instructed to
14 proceed to trial at a later date. Thus, under the current conditions, the Marin County Defendants
15 would proceed to a first trial on the current trial date, with the San Francisco Defendants potentially
16 defending a trial of the same issues at a later date. Of course, Plaintiff would have to prosecute both
17 trials.

18 5. Plaintiffs and all defendants agree that should the Court proceed to trial at this time,
19 most if not all evidence presented at a trial involving only the Marin Defendants would be presented in
20 the same or similar format at a potential second trial involving the San Francisco Defendants. All
21 party and non-party witnesses would be called to testify in both trials, and documentary or other
22 evidence would be presented twice.

23 6. Pretrial preparation and trial of the same case on two occasions would constitute
24 unnecessary cost to this Court and all parties and witnesses. The parties agree that this waste of
25 judicial resources, attorney time, and witness time is best avoided by a stay of the entire case,
26 including all pre-trial preparation and settlement dates, until the resolution of the summary judgment
27 motion on appeal.

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1 Dated: October 3, 2012

DENNIS J. HERRERA
City Attorney
CHERYL ADAMS
Chief Trial Deputy
MICHAEL GERCHOW
Deputy City Attorneys

6 By: /s/ Michael A. Gerchow
MICHAEL GERCHOW

7 Attorneys for San Francisco Defendants

10 Dated: October 3, 2012

PATRICK K. FAULKNER
County Council
RENEE GIACOMINI BREWER

14 By: /s/ Renee Giacomini Brewer
RENEE GIACOMINI BREWER

15 Attorneys for Marin County Defendants

17 Dated: October 8, 2012

LAW OFFICES OF JOHN L. BURRIS

20 By: /s/ John L. Burris
JOHN L. BURRIS


21 Attorneys for Plaintiffs

1 **ORDER**

2 Having considered the stipulation of the parties and good cause appearing, the trial date in this
3 are matter ^{is} hereby VACATED pending the outcome of any appeals made by the parties in relation to the
4 motion for reconsideration ~~currently pending before this Court.~~ denied by order filed concurrently herewith.
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6 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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8 DATED: October 25, 2012

9 By: 
10 Hon. Maxine M. Chesney
11 UNITED STATES DISTRICT COURT JUDGE
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