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UNITED STATES DISTRICT COURT

Northern District of California

San Francisco

FRANK MORROW,

No. C 11-02351 LB

Plaintiff,

**ORDER (1) DIRECTING
DEFENDANTS TO FILE REPLY
BRIEF AND (2) CONTINUING
HEARINGS ON DEFENDANTS'
MOTION TO DISMISS AND
PLAINTIFF'S MOTION TO STAY**

v.

CITY OF OAKLAND, et al.,

Defendants.

[Re: ECF Nos. 39, 46]

On May 12, 2011, *pro se* plaintiff Frank Morrow sued the City of Oakland, California (“City of Oakland”) and numerous individuals (the “Individual Defendants”) (collectively, “Defendants”) for violation of state and federal law in relation to his employment as an Oakland police officer. *See* Original Complaint, ECF No. 1.¹ After the court dismissed his First Amended Complaint, Mr. Morrow filed a Second Amended Complaint on February 17, 2012. Second Amended Complaint (“SAC”), ECF No. 38; *see* First Amended Complaint (“FAC”), ECF No. 6. On March 8, 2012, Defendants filed a motion to dismiss Mr. Morrow’s Second Amended Complaint. Motion to Dismiss SAC, ECF No. 39. Hearing on the motion is currently scheduled for May 2, 2012.

On April 18, 2012, Mr. Morrow filed a motion to stay the case. Motion to Stay, ECF No. 46. Mr. Morrow noticed the motion for hearing on May 17, 2012 in violation of this District’s Civil

¹ Citations are to the Electronic Case File (“ECF”) with pin cites to the electronic page number at the top of the document, not the pages at the bottom.

1 Local Rules. *See* N.D. Cal. Civ. L.R. 7-2(a) (stating that motions may not be noticed for hearing
2 sooner than 35 days after service of the motion). Defendants filed an opposition on April 20, 2012.
3 Opposition to Stay, ECF No. 50.

4 On April 26, 2012, Mr. Morrow filed an untimely opposition to Defendants' motion to dismiss.²
5 Given the preference for actions to be resolved on their merits, the court finds good cause to accept
6 the untimely opposition. Because Mr. Morrow filed the opposition so close to the May 2, 2012
7 hearing date, the court ORDERS as follows:

- 8 1. Defendants shall file a reply to Mr. Morrow's opposition by May 14, 2012.
- 9 2. The hearings on Defendants' motion to dismiss Mr. Morrow's Second Amended Complaint and
10 Mr. Morrow's motion to stay are continued to June 7, 2012 at 11:00 a.m. in Courtroom C, 15th
11 Floor, United States District Court, 450 Golden Gate Avenue, San Francisco, California, 94102.

12 **IT IS SO ORDERED.**

13 Dated: April 27, 2012

14 
15 LAUREL BEELER
16 United States Magistrate Judge

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26 _____
27 ² Mr. Morrow's opposition has not yet been uploaded to the court's ECF system, but the
28 hardcopy received by the court does bear the Clerk of the Court's stamp indicating that it was filed
at 2:58 p.m. on April 26, 2012. The court assumes that the opposition will be uploaded to the ECF
system on Monday, April 30, 2012. Any issues concerning service of the opposition shall be taken
up on that date.